

*Entered*

DEC 30 1983

JUDICIAL CLERK  
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JOHN G. SULLIVAN and  
FIORETTA M. SULLIVAN,

Plaintiffs,

vs.

THRIFTY, INC.,

Defendant,

CONSOLIDATED WITH

W. F. STEMMONS,

Plaintiff,

vs.

THRIFTY, INC.,

Defendant.

Case No. 82-C-803-B

Consolidated with

Case No. 82-C-802-B ✓

ORDER

NOW ON this 30th day of December, 1983, the above-styled and numbered cause comes on before this Court for hearing to determine attorney fees and costs to be awarded to the Defendant, Thrifty, Inc., as the prevailing party pursuant to this Court's Judgment entered December 2, 1983. The Court is advised by the parties and finds that they have reached a stipulation as to reasonable amounts of costs and attorney fees to be awarded by the Court, as follows:

Costs	\$ 9,921.40
Attorney Fees	<u>110,078.60</u>
 TOTAL	 <u>\$120,000.00</u>

The Court having considered the stipulation of the parties and being fully advised in the premises finds that costs and attorney fees in said amounts should be awarded in favor of Thrifty, Inc. and against the Plaintiffs, W. F. Stemmons, John G. Sullivan and Fioretta M. Sullivan proportionately with W. F. Stemmons bearing 95.1% of said amount and John G. Sullivan and Fioretta M. Sullivan bearing 4.9% of said amount.

IT IS HEREBY ORDERED that judgment is entered in favor of the Defendant, Thrifty, Inc., and against the Plaintiff, W. F. Stemmons, for costs and attorney fees in the amount of \$114,120.00.

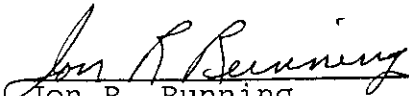
IT IS FURTHER ORDERED that the Defendant, Thrifty, Inc., have judgment against the Plaintiffs, John G. Sullivan and Fioretta M. Sullivan, for costs and attorney fees in the amount of \$5,880.00.

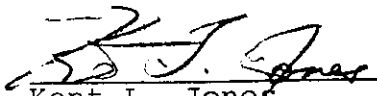
ENTERED this 29<sup>th</sup> day of Dec, 1983.

**S/ THOMAS R. BRETT**

THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:

  
Jon R. Running  
Richard D. Marrs  
Attorneys for Plaintiffs,  
John G. Sullivan, Fioretta M.  
Sullivan and W. F. Stemmons

  
Kent L. Jones  
James E. Green, Jr.  
Attorneys for Defendant,  
Thrifty, Inc.

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

KARL M. KNOERNSCHILD, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 ) C 81-C-547-E  
 BOARD OF COUNTY COMMISSIONERS )  
 COUNTY OF WAGONER, STATE OF )  
 OKLAHOMA, et. al., )  
 )  
 Defendants, )

FILED

DEC 30 1983

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER

COMES NOW this Court upon application of the plaintiff, Karl M. Knoernschild, filed in this Court on the 29th day of June 1983, by and through his attorney of record, Wesley E. Johnson and, after examining the record and being fully advised in the premises finds as follows:

I

That the complaint was filed by the plaintiff in the above styled and numbered matter as against Jim Reeves, an individual, among others, on the 9th day of October, 1981;

II

That a copy of the complaint was served upon the aforementioned Jim Reeves at his place of employment to wit: The Public Health facility on Fort Chafee, Arkansas, by members of the U. S. Marshal's Service on the 30th day of October, 1981, at 2:00 o'clock in the AM, according to the U. S. Marshal's return of service properly executed and returned on the 9th day of November, 1981;

### III

That from that date the defendant Jim Reeves has wholly and completely failed to plead or answer this complaint;

### IV

That the motion for default judgment with accompanying brief was filed by the plaintiff on the 28th day of January, 1982, and default was entered by the clerk of this Court on that day;

### V

That this Court, after examining the Plaintiff's motion for default judgment denied same without prejudice to its reassertion for failure of the plaintiff to properly assert the applicable provisions of the Soldiers and Sailors Relief Act of 1940 (50 USC App § 520);

### VI

That the plaintiff reasserted his motion for default judgment with accompanying brief as against the defendant Jim Reeves on the 29th day of June, 1982, and default was entered by the clerk of the court on that day;

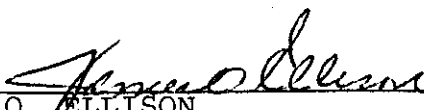
### VII

That this Court has examined the plaintiff's motion of the 29th day of June, 1982, and finds it to be properly presented and pled and that default as against the defendant Jim Reeves is properly entered.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by this Court that because of the defendant Jim Reeves complete failure to answer or plead in this litigation and according to the provisions of Rule 55 of the Federal Rules of Civil

Procedure, judgment is now entered against the aforementioned defendant, Jim Reeves, in the amount of \$570.00, the amount of actual damages proven by Plaintiff at trial, \$96.08 in court costs, and \$450.00 in attorney fees for this action.

12/30/83

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

FILED

DEC 30 1983

IN THE UNITED STATES DISTRICT COURT FOR THE JACK D. SILVER, CLERK  
NORTHERN DISTRICT OF OKLAHOMA U.S. DISTRICT COURT

RONNIE MCGOWAN,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Nos. 75-CR-90, 75-CR-101
	)	No. 83-C-1045-C
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

O R D E R

Now before the Court for its consideration is the motion of Ronnie Vernon LeRoy McGowan, an inmate in the Conners Correctional Center, pursuant to 28 U.S.C. Sec.2255. The pleading filed by plaintiff is written on a form supplied by the Clerk of this Court, entitled "Motion Pursuant to 28 U.S.C. Sec.2255 to vacate, set aside, or correct sentence by a person in federal custody." However, ground one charges that the "parole commission" denied him due process by failing to hold a parole revocation hearing within 90 days; ground two alleges a denial of due process and "violation of ex post facto" when a parole violation warrant was issued in October of 1979 against him, which was held in abeyance, supplemented in July of 1980, and not executed until November of 1980; ground three alleges violation of his

constitutional rights in that a detainer that has been in effect against him since November of 1982 has prevented him from being eligible for work release or being able to post bond while in county jail.


A motion pursuant to Title 28 U.S.C. Sec.2255 must involve a claim that a sentence imposed by this Court was "imposed in violation of the Constitution or laws of the United States, or that the Court was without jurisdiction to impose such a sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack."

Plaintiff herein has not asked the Court to vacate, set aside, or correct his sentence. Rather he has raised issues which appear to the Court to require presentation in a petition under 28 U.S.C. Sec.2241 or 42 U.S.C. Sec.1983. A petition under Sec.2255 can test only the sentence imposed and not the sentence "as it is being executed." Ridenour v. United States, 446 F.2d 57 (9th Cir. 1971).

Since McGowan's motion lacks specific details as to detainers and parole commissions, the Court is unable to construe the motion as either a petition under 28 U.S.C. Sec.2241 or 42 U.S.C. Sec.1983, nor can it be determined whether this Court would have jurisdiction over the parties or entities, since they remain unnamed. Brown v. United States, 610 F.2d 672 (9th Cir. 1980).

Therefore, McGowan's motion under Title 28 U.S.C. Sec.2255 should be and hereby is overruled, and this action is dismissed in all respects.

It is so Ordered this 30<sup>th</sup> day of December, 1983.

  
H. DALE COOK  
Chief Judge, U. S. District Court



REC 33 100

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

RONNIE MCGOWAN,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Nos. 75-CR-90, 75-CR-101
	)	No. 83-C-1044-C ✓
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

O R D E R

Now before the Court for its consideration is the motion of Ronnie Vernon LeRoy McGowan, an inmate in the Connors Correctional Center, pursuant to 28 U.S.C. Sec.2255. The pleading filed by plaintiff is written on a form supplied by the Clerk of this Court, entitled "Motion Pursuant to 28 U.S.C. Sec.2255 to vacate, set aside, or correct sentence by a person in federal custody." However, ground one charges that the "parole commission" denied him due process by failing to hold a parole revocation hearing within 90 days; ground two alleges a denial of due process and "violation of ex post facto" when a parole violation warrant was issued in October of 1979 against him, which was held in abeyance, supplemented in July of 1980, and not executed until November of 1980; ground three alleges violation of his

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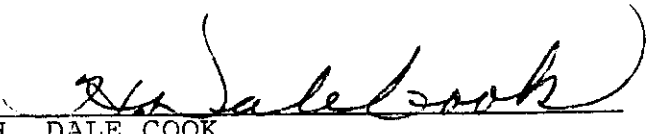
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Plaintiff herein has not asked the Court to vacate, set aside, or correct his sentence. Rather he has raised issues which appear to the Court to require presentation in a petition under 28 U.S.C. Sec.2241 or 42 U.S.C. Sec.1983. A petition under Sec.2255 can test only the sentence imposed and not the sentence "as it is being executed." Ridenour v. United States, 446 F.2d 57 (9th Cir. 1971).

Since McGowan's motion lacks specific details as to detainers and parole commissions, the Court is unable to construe the motion as either a petition under 28 U.S.C. Sec.2241 or 42 U.S.C. Sec.1983, nor can it be determined whether this Court would have jurisdiction over the parties or entities, since they remain unnamed. Brown v. United States, 610 F.2d 672 (9th Cir. 1980).

Therefore, McGowan's motion under Title 28 U.S.C. Sec.2255 should be and hereby is overruled, and this action is dismissed in all respects.

It is so Ordered this 30<sup>th</sup> day of ~~January~~ <sup>December</sup>, 1983.

  
H. DALE COOK  
Chief Judge, U. S. District Court

Entered

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

DEC 30 1983

PATRICIA A. ARTHUR,

Plaintiff,

v.

SYNERGY GROUP, INC., a  
Delaware corporation,

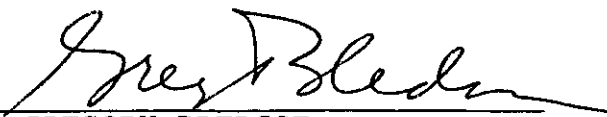
Defendant.

No. 83-C-435-B

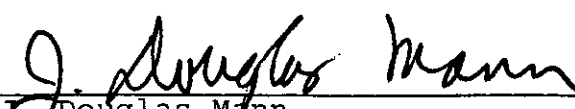
JOINT STIPULATION OF  
DISMISSAL WITH PREJUDICE

The plaintiff, Patricia A. Arthur, and the defendant, Synergy Group, Inc., advise the court of a settlement agreement between the parties and pursuant to Rule 41(a)(1)(ii), F.R.C.P., jointly stipulate that the plaintiff's action be dismissed with prejudice, the parties to bear their respective costs, including all attorney's fees and expenses of this litigation.

DATED this 30<sup>th</sup> day of December, 1983.

  
D. GREGORY BLEDSOE  
1515 South Denver  
Tulsa, Oklahoma 74119  
(918) 599-8118

Attorney for Plaintiff

  
J. Douglas Mann  
ROSENSTEIN, FIST & RINGOLD  
525 South Main, Suite 300  
Tulsa, Oklahoma 74103  
(918) 585-9211

Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

KARL M. KNOERNSCHILD,

Plaintiff,

vs.

JAMES DAVIS, an Individual,  
G. L. HOLT, an Individual,  
and R. ROSS, an Individual,

Defendants.

No. 81-C-547-E

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

DEC 30 1983

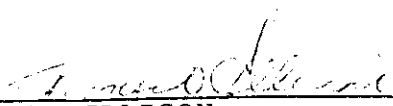
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JUDGMENT

This action came on for jury trial before the Court, Honorable James O. Ellison, District Judge, presiding, and the issues having been duly tried and a decision having been duly rendered by the jury,

IT IS ORDERED AND ADJUDGED that the Plaintiff Karl M. Knoernschild take nothing, that the action be dismissed on the merits, and that the Defendants, James Davis, G. L. Holt and R. Ross, recover of the Plaintiff its costs of action.

DATED at Tulsa, Oklahoma this 30<sup>th</sup> day of December, 1983.

  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

DEC 30 1983

GARY MITCHELL,

Plaintiff,

vs.

JOHN WESTERN,

Defendant.

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

NO. 83-C-758-C

RECEIVED  
U.S. DISTRICT COURT

JUDGMENT

The application for default judgment came on for hearing before the Court, the Honorable J. Dale Cook, District Judge, Presiding. The Court, being fully advised in the premises finds that said application should be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Plaintiff, Gary Mitchell be and he is hereby awarded a judgment against the Defendant, John Western in the amount of \$15,000.00 actual damages, \$50,000.00 punitive damages, interest as provided for by law and costs of the action.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the issue of attorney fees allowable in this case shall be heard by the Court at a later date, as provided for by law.

/s/ H. Dale Cook  
UNITED STATES JUDGE

Entered  
19

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED  
DEC 30 1983

CLERK  
U.S. DISTRICT COURT

JOHN G. SULLIVAN and  
FIORETTA M. SULLIVAN,

Plaintiffs,

vs.

THRIFTY, INC.,

Defendant,

CONSOLIDATED WITH

W. F. STEMMONS,

Plaintiff,

vs.

THRIFTY, INC.,

Defendant.

Case No. 82-C-803-B

Consolidated with

Case No. 82-C-802-B

ORDER

NOW ON this 30th day of December, 1983, the above-styled and numbered cause comes on before this Court for hearing to determine attorney fees and costs to be awarded to the Defendant, Thrifty, Inc., as the prevailing party pursuant to this Court's Judgment entered December 2, 1983. The Court is advised by the parties and finds that they have reached a stipulation as to reasonable amounts of costs and attorney fees to be awarded by the Court, as follows:

Costs	\$ 9,921.40
Attorney Fees	<u>110,078.60</u>
TOTAL	<u>\$120,000.00</u>

The Court having considered the stipulation of the parties and being fully advised in the premises finds that costs and attorney fees in said amounts should be awarded in favor of Thrifty, Inc. and against the Plaintiffs, W. F. Stemmons, John G. Sullivan and Fioretta M. Sullivan proportionately with W. F. Stemmons bearing 95.1% of said amount and John G. Sullivan and Fioretta M. Sullivan bearing 4.9% of said amount.


IT IS HEREBY ORDERED that judgment is entered in favor of the Defendant, Thrifty, Inc., and against the Plaintiff, W. F. Stemmons, for costs and attorney fees in the amount of \$114,120.00.


IT IS FURTHER ORDERED that the Defendant, Thrifty, Inc., have judgment against the Plaintiffs, John G. Sullivan and Fioretta M. Sullivan, for costs and attorney fees in the amount of \$5,880.00.

ENTERED this 29<sup>th</sup> day of Dec., 1983.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:

  
Jon R. Running  
Richard D. Marrs  
Attorneys for Plaintiffs,  
John G. Sullivan, Fioretta M.  
Sullivan and W. F. Stemmons

  
Kent L. Jones  
James E. Green, Jr.  
Attorneys for Defendant,  
Thrifty, Inc.



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

KARL M. KNOERNSCHILD, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
BOARD OF COUNTY COMMISSIONERS )  
COUNTY OF WAGONER, STATE OF )  
OKLAHOMA, et. al., )  
 )  
Defendants, )

C 81-C-547-E

FILED

DEC 30 1983

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER

COMES NOW this Court upon application of the plaintiff, Karl M. Knoernschild, filed in this Court on the 29th day of June 1983, by and through his attorney of record, Wesley E. Johnson and, after examining the record and being fully advised in the premises finds as follows:

I

That the complaint was filed by the plaintiff in the above styled and numbered matter as against Jim Reeves, an individual, among others, on the 9th day of October, 1981;

II

That a copy of the complaint was served upon the aforementioned Jim Reeves at his place of employment to wit: The Public Health facility on Fort Chafee, Arkansas, by members of the U. S. Marshal's Service on the 30th day of October, 1981, at 2:00 o'clock in the AM, according to the U. S. Marshal's return of service properly executed and returned on the 9th day of November, 1981;

### III

That from that date the defendant Jim Reeves has wholly and completely failed to plead or answer this complaint;

### IV

That the motion for default judgment with accompanying brief was filed by the plaintiff on the 28th day of January, 1982, and default was entered by the clerk of this Court on that day;

### V

That this Court, after examining the Plaintiff's motion for default judgment denied same without prejudice to its reassertion for failure of the plaintiff to properly assert the applicable provisions of the Soldiers and Sailors Relief Act of 1940 (50 USC App § 520);

### VI

That the plaintiff reasserted his motion for default judgment with accompanying brief as against the defendant Jim Reeves on the 29th day of June, 1982, and default was entered by the clerk of the court on that day;

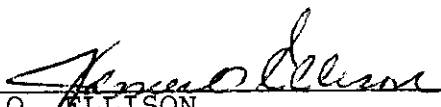
### VII

That this Court has examined the plaintiff's motion of the 29th day of June, 1982, and finds it to be properly presented and pled and that default as against the defendant Jim Reeves is properly entered.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by this Court that because of the defendant Jim Reeves complete failure to answer or plead in this litigation and according to the provisions of Rule 55 of the Federal Rules of Civil

Procedure, judgment is now entered against the aforementioned defendant, Jim Reeves, in the amount of \$570.00, the amount of actual damages proven by Plaintiff at trial, \$96.08 in court costs, and \$450.00 in attorney fees for this action.

12/30/83

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

Entered

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 29 1983

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

ERMA M. BOHANON, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
MARGARET M. HECKLER, )  
Secretary of Health and )  
Human Services of the )  
United States of America, )  
 )  
Defendant. )

No. 83-C-518-B

JUDGMENT

In accordance with the Court's order entered this date,  
judgment affirming the decision of defendant Margaret M. Heckler,  
Secretary of Health and Human Services of the United States of  
America, is hereby entered.

ENTERED this 29<sup>th</sup> day of December, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

GUTHRIE EDWIN JONES,

Petitioner,

vs.

No. 83-C-881-E

FRANK THURMAN,

Respondent,

and

THE ATTORNEY GENERAL OF  
THE STATE OF ARKANSAS,

Additional  
Respondent.

**FILED**

DEC 29 1983

Jack G. Silver, Clerk  
U. S. District Court

ORDER TO TRANSFER CAUSE

The Court, upon consideration of the Petition for Writ of Habeas Corpus and the pleadings and record in this case, finds:

1. That at the time of the filing of this petition, Petitioner was confined in the Tulsa County Jail, Tulsa, Oklahoma. Petitioner was being held pending the resolution of state habeas corpus proceedings initiated for the purpose of challenging a governor's warrant issued pursuant to 22 O.S. 1981 § 1141.7.
2. Since the filing of this lawsuit, Petitioner has been released to the custody of the Arkansas Department of Corrections.
3. Petitioner is presently incarcerated in the state prison diagnostic hospital in Pine Bluff, Arkansas.
4. Petitioner is no longer in the custody of Respondent

Sheriff Frank Thurman; therefore Respondent Thurman must be dismissed from this case.

5. The petition, as originally filed, was in proper form pursuant to Rule 2(b) of the Rules Governing § 2254 Cases in the United States District Courts, 28 U.S.C. fol. § 2254, in that Petitioner attacked future custody in another jurisdiction, naming the then present custodian, and the Attorney General of the state in which judgment was entered.

The Attorney General of the State of Arkansas is in the best position to inform the Court of the proper party respondent. (See the Advisory Committee Note to Rule 2, 28 U.S.C. fol. § 2254.).

6. Although a District Court does not always lose jurisdiction when a habeas corpus petitioner is removed from the district, since no appropriate respondent with custody remains in this state, this Court cannot affect his release from custody. See Jones v. Cunningham, 83 S.Ct. 373, 377 (1963).
7. Since this Court is not the appropriate forum for adjudication of this matter, and since the State of Arkansas is not only the forum with custody, but also the jurisdiction whose confinement is being attacked, this Court finds that, in the interest of justice, this cause should be transferred to the United States District Court for the Eastern District of Arkansas. 28 U.S.C. § 1404(a). Due to the peculiar jurisdictional


problems of a habeas corpus proceeding attacking future custody, this Court finds that the phrase "where it might have been brought" must be read to include the Eastern District of Arkansas. Petitioner, if not in physical custody here, could have filed his petition in the State of Arkansas as to attack his inevitable confinement in the future pursuant to the Governor's Warrant.

IT IS THEREFORE ORDERED AND ADJUDGED that Respondent Frank Thurman be dismissed from this case.

IT IS FURTHER ORDERED that pursuant to 28 U.S.C. § 1404(a) this cause is hereby transferred to the United States District Court for the Eastern District of Arkansas.

IT IS FURTHER ORDERED that the Clerk of this Court shall mail a copy of this Order to the Petitioner.

DATED this 27<sup>th</sup> day of December, 1983.

  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**

DEC 29 1983

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

JUDY G. MOUNCE,

Plaintiff,

vs.

AIR CARGO EQUIPMENT CORP.,

Defendant.

No. 83-C-707-E

O R D E R

On presentation of a Stipulation for Dismissal filed in  
the within proceeding:

IT IS ORDERED, ADJUDGED AND DECREED that:

1. Plaintiff's Complaint, including all claims therein,  
shall be and is hereby dismissed with prejudice.

2. Each party shall bear her or its own costs in this  
matter.

  
UNITED STATES DISTRICT JUDGE



Entered

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC 29 1983  
JACK H. HARRIS, CLERK  
U.S. DISTRICT COURT

ANDERMAN/SMITH OPERATING  
COMPANY, a Colorado corporation, )

Plaintiff, )

vs. )

INTERSTATE EXPLORATION, INC., )  
an Oklahoma corporation, )

Defendant. )

No. 83-C-832-B

STIPULATION OF DISMISSAL  
WITH PREJUDICE

Plaintiff, Anderman/Smith Operating Company, by and through its undersigned counsel, hereby dismisses with prejudice each and every cause of action and claim for relief asserted in the Complaint filed herein. Defendant, Interstate Exploration, Inc., by and through its undersigned attorney, hereby stipulates to this Dismissal With Prejudice.

DONE this 27 day of December, 1983.

PRICHARD, NORMAN & WOHLGEMUTH

By



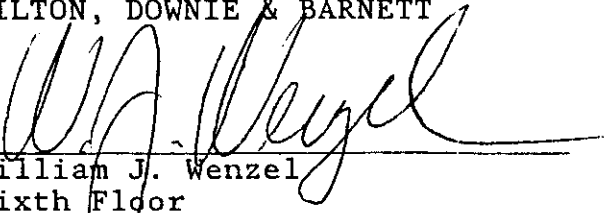
R. Jay Chandler  
909 Kennedy Building  
Tulsa, Oklahoma 74103  
(918) 583-7571

Attorneys for Plaintiff

STIPULATED AND AGREED TO:

SNEED, LANG, ADAMS,  
HAMILTON, DOWNIE & BARNETT

By



William J. Wenzel  
Sixth Floor  
114 East Eighth Street  
Tulsa, Oklahoma 74119  
(918) 583-3145

Attorneys for Defendant

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

Entered  
**FILED**

UNITED STATES OF AMERICA, )

Plaintiff, )

vs. )

VIRGINIA A. HERNDON, )

Defendant. )

DEC 29 1983

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

CIVIL ACTION NO. 83-C-662-C

DEFAULT JUDGMENT

This matter comes on for consideration this 28th day  
of Dec., 1983, the Plaintiff appearing by Frank  
Keating, United States Attorney for the Northern District of  
Oklahoma, through Peter Bernhardt, Assistant United States  
Attorney, and the Defendant, Virginia A. Herndon, appearing not.

The Court being fully advised and having examined the  
file herein finds that Defendant, Virginia A. Herndon, was served  
with Alias Summons and Complaint on September 16, 1983. The time  
within which the Defendant could have answered or otherwise moved  
as to the Complaint has expired and has not been extended. The  
Defendant has not answered or otherwise moved, and default has  
been entered by the Clerk of this Court. Plaintiff is entitled  
to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the  
Plaintiff have and recover Judgment against Defendant,  
Virginia A. Herndon, for the principal sum of \$667.09, plus costs  
and interest at the current legal rate of 10:10 percent from  
the date of judgment until paid.

12/ H. Dale Cook  
UNITED STATES DISTRICT JUDGE

**FILED**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC 29 1983

HERMAN BEASLEY,

Plaintiff,

v.

SAND SPRINGS RAILWAY COMPANY,  
a corporation,

Defendant.

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

No. 83-C-630

ORDER

THIS MATTER comes on for review of the Stipulation for Dismissal filed herein by the parties. After carefully examining the Stipulation and the record herein, the Court finds that the cause should be dismissed with prejudice as to the filing of any future lawsuit, the issues having been settled and compromised.

IT IS SO ORDERED this 28<sup>th</sup> day of December,  
198 83.

H. Dale Cook  
H. DALE COOK  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED  
DEC 23 1983

CLERK  
U.S. DISTRICT COURT

FITZGERALD, DeARMAN &  
ROBERTS, INC., an Oklahoma  
corporation,

Plaintiff,

vs.

Case No. 83-C-357-C

SHANLEY OIL COMPANY, a  
Delaware corporation,

Defendant.

STIPULATION OF DISMISSAL

IT IS HEREBY STIPULATED that the above-entitled, including  
all claims and counterclaims filed by the parties, may be dis-  
missed with prejudice, each party to bear its own costs.

DATED this 29<sup>th</sup> day of December, 1983.

DOERNER, STUART, SAUNDERS,  
DANIEL & ANDERSON  
G. Michael Lewis  
Richard P. Hix  
Lewis N. Carter  
1000 Atlas Life Building  
Tulsa, Oklahoma 74103  
(918) 582-1211

By: Lewis N. Carter  
Lewis N. Carter

Attorneys for Plaintiff, Fitzgerald,  
DeArman & Roberts, Inc.

BRICE & BARRON

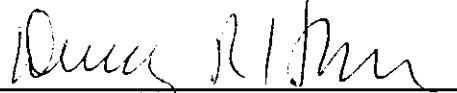
Dewey R. Hicks, Jr.  
2001 Bryan Tower  
Suite 3858  
Dallas, Texas 75201

and

CONNER, WINTERS, BALLAINE,  
BARRY & MCGOWEN

J. David Jorgenson  
2400 First National Tower  
Tulsa, Oklahoma 74103

By:

  
Dewey R. Hicks, Jr.

Attorneys for Defendant,  
Shanley Oil Company

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC 29 1983

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

WILLIAM LYNN STRINGFIELD,

Petitioner,

vs.

JACK GRIDER, Warden, et al.,

Respondents.

No. 72-C-236

ORDER CLOSING CASE

NOW, on this 29th day of Dec., 1983, comes on for disposition the above-styled cause. By joint announcement of the Parties' counsel, it appears as follows:

1. The formal Writ of Habeas Corpus originally sought herein was never granted, because Petitioner was no longer in custody by the time he had won this case. However, by previous judgments and orders herein, affirmed twice on appeal, the underlying purported conviction and sentence herein were vacated, quashed, set aside, and held for naught as absolute jurisdictional nullities ab initio; and the State has declined any attempt at reprosecution. The Petitioner's victory is therefore now final and res judicata.
2. The expungement of the records previously ordered herein has been accomplished to the maximum extent physically possible; and Petitioner's counsel has stated that he is satisfied that there is no more reasonably to be expected from the State in this regard, either now or in the foreseeable future.
3. The allowable and taxed costs have been paid.
4. There is no more to be done in this case, either now or in the foreseeable future.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED By the Court that this case should be and hereby now is closed indefinitely. However, the Clerk is directed to continue to retain the records and file herein under seal (or to transfer the same to some appropriate archival facility for long-term storage under seal), which files and records will continue to be openable only under Court order, and for which, should the need ever arise, this Court will retain a residual jurisdiction.

W. H. Dale Cook  
DISTRICT JUDGE

APPROVED AS TO FORM:

Fred Gilbert  
Attorney for Petitioner

MICHAEL C. TURPEN  
Attorney General of Oklahoma

By Robert A. Nance  
Assistant Attorney General



## DEC 28 1963

U.S. DISTRICT COURT

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CIVIL ACTION NO. 83-C-760-E

## NOTICE OF DISMISSAL

Dated this 28th day of December, 1983.

Nancy A. Nesbitt

Nancy A. Mellett  
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

URY L. MACKEY,

Plaintiff,

vs.

D & N LANDFILL, INC., and  
ALLEN D. TULK, SR., d/b/a D &  
N LANDFILL, INC., and NORMA J.  
TULK, d/b/a D & N LANDFILL,  
INC., and ALLEN D. TULK, JR.,  
d/b/a D & N LANDFILL, INC.,  
and ALLEN D. TULK, SR. and  
NORMA J. TULK and ALLEN D.  
TULK, JR.,

Defendants.

No. 83-C-884-C

FILED  
12-28-83  
Jack C. Silver, Clerk

JUDGMENT

The defendants, D & N Landfill, Inc., Allen D. Tulk, Sr., d/b/a D & N Landfill, Inc., Norma J. Tulk, d/b/a D & N Landfill, Inc., Allen D. Tulk, Jr., d/b/a D & N Landfill, Inc., Allen D. Tulk, Sr., Norma J. Tulk, and Allen D. Tulk, Jr., have failed to plead or otherwise defend in this action and their default having been entered,

Now, upon application of the plaintiff and upon Affidavit, the defendants are indebted to the plaintiff in the sum of \$13,138.40 the defendants have been defaulted for failure to appear and the defendants are not infants or incompetent per-

sons, and are not in the military service of the United States,  
and are hereby

ORDERED, ADJUDGED AND DECREED that the plaintiff  
recover from the defendants the sum of \$6,569.20, liquidated  
damages of \$6,569.20, with interest at the rate permitted by  
the Court per annum from the 28<sup>th</sup> day of December, 1983,  
and costs

Jack C. Silver, Clerk  
CLERK OF THE DISTRICT COURT

By Kay Gizzi  
Deputy

DATED: December 28, 1983

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

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JACK C. SILVER, CLERK  
U.S. DISTRICT COURT  
No. 83-C-311-BT

THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 27 1983

THE CHASE MANHATTAN BANK, N.A.)

Plaintiff, )

vs. )

No. 83-C-227-B

BERRY PETROLEUM CORPORATION, )  
an Oklahoma Corporation; )  
BERRY PETROLEUM 1980 )  
BALANCED DRILLING PROGRAM, )  
LTD., an Oklahoma Limited )  
Partnership; BERRY 1980 )  
CHEROKEE DRILLING PROGRAM, )  
LTD., an Oklahoma Limited )  
Partnership; BERRY 1980 )  
TONKAWA DRILLING PROGRAM, )  
LTD., an Oklahoma Limited )  
Partnership; BERRY 1980 )  
COMANCHE DRILLING PROGRAM, )  
LTD., an Oklahoma Limited )  
Partnership; and BERRY )  
1980-I ANADARKO DRILLING )  
PROGRAM, LTD., an Oklahoma )  
Limited Partnership, )

Defendants. )


WACK C. SILVER, CLERK  
U.S. DISTRICT COURT

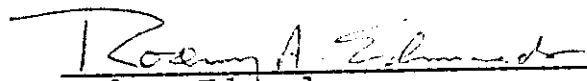
ORDER GRANTING TRANSFER

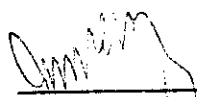
Upon motion by the Plaintiff and consent of Defendants,  
Berry Petroleum Corporation, Berry Petroleum 1980 Balanced  
Drilling Program, Ltd., Berry 1980 Cherokee Drilling Program,  
Ltd., Berry 1980 Tonkawa Drilling Program, Ltd., Berry 1980  
Comanche Drilling Program, Ltd., and Berry 1980-I Anadarko  
Drilling Program, Ltd., the above captioned matter is transferred  
to the United States District Court for the Western District of  
Oklahoma.

  
UNITED STATES DISTRICT JUDGE

Approved:

  
\_\_\_\_\_  
Craig A. Stokes  
Paula E. Pyron  
Of BOESCHE, McDERMOTT & ESKRIDGE  
320 South Boston, Suite 1300  
Tulsa, Oklahoma 74103

  
\_\_\_\_\_  
Rodney Edwards  
Jones, Givens, Gotcher, Doyle,  
& Bogen, Inc.  
201 W. 5th, Suite 400  
Tulsa, Oklahoma 74103

  
\_\_\_\_\_  
James M. Chaney  
Kirk & Chaney  
1300 Midland Center  
134 Robert S. Kerr  
Oklahoma City, Oklahoma 73102

Entered

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

DEC 27 1983

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )

Plaintiff, )

vs. )

No. 81-C-875-B

CLAREMORE JUNIOR COLLEGE, )

Defendant. )

ORDER OF DISMISSAL WITH PREJUDICE

Pursuant to the parties' stipulation and according to the terms of their settlement agreement, this action should be, and is hereby, dismissed with prejudice, with each party to bear its own costs and attorney fees.

IT IS SO ORDERED.

Entered this 27<sup>th</sup> day of December, 1983.

  
United States District Judge

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

DEC 27 1983

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JERRY L. BRYAN,

Defendant.

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

CIVIL ACTION NO. 83-C-877-E

AGREED JUDGMENT

This matter comes on for consideration this 22 day  
of Dec, 1983, the Plaintiff appearing by Frank Keating,  
United States Attorney for the Northern District of Oklahoma,  
and the Defendant, Jerry L. Bryan, appearing by Howard D.  
Perkins, Jr., attorney.

The Court, being fully advised and having examined the  
file herein, finds that the Defendant, Jerry L. Bryan, was served  
with Summons and Complaint. The Defendant has not filed his  
Answer but in lieu thereof has agreed that he is indebted to the  
Plaintiff in the amount alleged in the Complaint and that  
Judgment may accordingly be entered against him in the amount of  
\$664.76, (less the amount of \$50.00 which has been paid) plus  
costs and interest at the current legal rate of 9.93 percent  
from the date of judgment until paid.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that  
the Plaintiff have and recover Judgment against the Defendant,

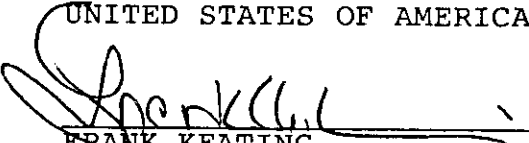



Jerry L. Bryan, in the amount of \$664.76, (less the amount of \$50.00 which has been paid) plus costs and interest at the current legal rate of 9.93 percent from the date of judgment until paid.


UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

  
FRANK KEATING  
United States Attorney

  
JERRY L. BRYAN

  
HOWARD D. PERKINS, JR.  
Attorney for Defendant

FILED

10-27-63

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No. 83-C-150-E


**Silver** **WESTERN**

Defendant.

## ORDER

NOW on this xxd day of December, 1983, comes on for hearing the Confession of Judgment by Plaintiff as to Defendant's counterclaim in the above-styled action and the Court, being fully advised in the premises, finds that Defendant shall be granted judgment with respect to its counterclaim.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Defendant, Black Horse Well Service, Inc. be given judgment against Plaintiff, Guidon Oil & Gas, inc., for the principal sum of \$5,700.00 with interest from October 6, 1982 at the rate of 9.93% per annum.

  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 27 1983

JOHN C. SILVER, CLERK  
U.S. DISTRICT COURT

THE NORTHERN TRUST COMPANY, )  
an Illinois Banking )  
Association, )

Plaintiff and )  
Counter-Defendant, )

v. )

CHASE EXPLORATION CORPORATION, )  
CHASE GATHERING SYSTEMS, )  
foreign corporations; CHASE )  
EXPLORATION LIMITED, a general )  
partnership; JERALD M. SCHUMAN; )  
ARTHUR R. POOL; and RALPH W. )  
JACKSON, )

Defendants and )  
Counter-Plaintiffs, )

v. )

HARRY B. WILSON, an individual; )  
PENN SQUARE BANK, a National )  
Banking Association; BILL G. )  
PATTERSON, an individual, )

Additional )  
Counter-Defendants. )

Case No. 82-C-1047-B

ORDER OF DISMISSAL

Plaintiff/Counter-Defendant, The Northern Trust Company ("Northern Trust"), and Counter-Defendant, Harry B. Wilson ("Wilson"), by their attorneys of record, and Defendant/Counter-Plaintiff, Ralph W. Jackson ("Jackson"), by his attorney of record, having filed a Joint Motion to Dismiss with a Stipulation to Dismiss attached as Exhibit A thereto and the Court being advised in the premises:

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 27 1983

DELLA KAY McCULLOCH, et al., )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
ROGERS STATE COLLEGE, et al., )  
 )  
Defendants. )

WILLIAM C. SILVER, CLERK  
DISTRICT COURT

No. 81-C-868-B

ORDER APPROVING SETTLEMENT AGREEMENT  
and PARTIAL DISMISSAL WITH PREJUDICE

On this 27<sup>th</sup> day of Dec, 1983, this matter comes on for consideration by the Court of the joint stipulation of plaintiff McCulloch and the defendants for partial dismissal, approval of settlement, and request for entry of judgment; and the Court, having reviewed the parties' settlement agreement and being fully advised, finds that the same should be approved and that plaintiff McCulloch's individual claims against defendants Goodman, Flanagan, Viles and Mosier in their individual capacities should be, and are hereby, dismissed with prejudice.

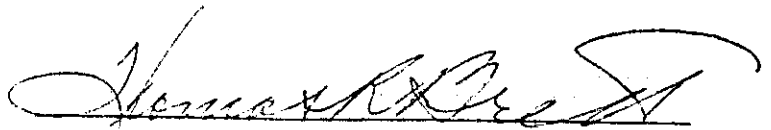
Further, the Court also finds that plaintiff McCulloch's individual claims for equitable relief against all defendants should be, and are hereby, dismissed with prejudice.

Further, the Court also finds that a judgment in the amount of Forty-Five Thousand Dollars (\$45,000.00) for damages for personal injuries should be entered in favor of plaintiff McCulloch and against defendants Rogers State College and The Board of Regents of Rogers State College, to bear interest from the date of said settlement agreement at the rate of ten percent (10%) per annum, compounded annually.

The parties have withdrawn their joint request that the Settlement Agreement and Release of Claims be sealed from public inspection.

The Court also finds that a hearing should be had on the 7th day of February, 1983, at 4:00 p.m., for the Court to determine the amount of attorney's fees to which plaintiff McCulloch is entitled, pursuant to the terms of the parties' settlement agreement.

AND IT IS SO ORDERED.

A handwritten signature in dark ink, appearing to read 'Thomas R. Brett', is written over a horizontal line.

THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

COME NOW the parties hereto, Della K. McCulloch (McCULLOCH herein), for herself, her attorneys, her heirs, executors, administrators, successors and assigns, the Federal Equal Employment Opportunity Commission (EEOC herein), and Rogers State College (COLLEGE herein), its predecessor Claremore Junior College, The Board of Regents of Rogers State College (BOARD herein), its predecessor The Board of Regents of Oklahoma Military Academy, Wallace Goodman (GOODMAN herein), Ilene Flanagan (FLANAGAN herein), the estate of Philip H. Viles, deceased, and Mildred M. Viles, his personal representative, his heirs, devisees, legatees and assigns (hereinafter collectively referred to as VILES), and Richard Mosier (MOSIER herein), together with their successors, assigns, officers, employees and agents, and enter into this agreement and release on the terms and for the purposes as set out hereafter:

1. In consideration for the promises of forbearance, the release and waiver of rights and the promise of future action made by McCulloch and EEOC as contained herein, COLLEGE, BOARD, GOODMAN, FLANAGAN, VILES and MOSIER agree to the settlement outlined in Paragraph 3.

2. In consideration of the settlement extended to McCULLOCH, as outlined in Paragraph 3, McCULLOCH and EEOC agree to the following:

A. McCULLOCH will waive and release any claim she now has or may have against GOODMAN, FLANAGAN, VILES and MOSIER, their successors, assigns and agents, which have arisen or may arise from McCULLOCH's employment at COLLEGE.

B. McCULLOCH agrees to dismiss with prejudice her action currently pending in the United States District Court for the Northern District of Oklahoma, styled Della K. McCulloch, et al., vs. Rogers State College, et al., Case No. 81-C-868-B,

as said action relates to any of her individual claims against GOODMAN, FLANAGAN, VILES and MOSIER, their successors, assigns and agents, and also agrees to dismiss with prejudice said individual action against the COLLEGE, BOARD and all other individual defendants named in their official capacity to the extent that she individually seeks any equitable relief, including, but not limited to, back pay, front pay, reinstatement, priority placement, due process hearings, injunctive and declaratory relief.

C. McCULLOCH agrees that she does not now, and will not in the future, seek re-employment or independent contractor status with or by the COLLEGE and BOARD, its successors or assigns.

D. McCULLOCH agrees to take whatever action that is necessary to achieve the withdrawal or dismissal of her individual charges of discrimination filed with the EEOC and to take whatever action that is necessary to cause the EEOC to dismiss with prejudice its action now pending against COLLEGE in the United States District Court for the Northern District of Oklahoma, styled EEOC vs. Claremore Junior College, Case No. 81-C-875-B.

E. EEOC agrees to dismiss with prejudice its action against COLLEGE currently pending in the United States District Court for the Northern District of Oklahoma, styled Equal Employment Opportunity Commission vs. Claremore Junior College, Case No. 81-C-875-B.

3. The settlement is enumerated as follows:

A. COLLEGE and BOARD agree to allow judgment to be entered against them and in favor of McCULLOCH in action No. 81-C-868-B for the amount of Forty-five Thousand Dollars (\$45,000.00) for damages for pain, suffering, emotional distress

and other personal injuries allegedly suffered by McCulloch for the alleged violation of her civil rights and as a result of her alleged tortious wrongful termination from employment at COLLEGE.

B. The aforesaid judgment shall be paid by COLLEGE and BOARD in three (3) installments: One-third (1/3) within ten (10) days of the signing of this agreement; one-third (1/3) within three (3) months after the signing of this agreement; and the final one-third (1/3) at the end of six (6) months after the signing of this agreement.

C. The balance remaining unpaid from the date of the signing of this agreement shall bear interest at the rate of ten percent (10%) per annum, compounded annually, until paid.

D. COLLEGE and BOARD agree to pay McCULLOCH's attorney's fees and court costs, pursuant to 28 U.S.C. §1920, 29 U.S.C. §216(b), 42 U.S.C. §1988, 42 U.S.C. §2000e-5(k) and 12 O.S. §§939-940, said amount to be set and determined by the Court, entered as a judgment against COLLEGE and BOARD in Case No. 81-C-868-B, to be paid in installments as in subparagraph B above from date of entry of judgment, and to earn interest as in subparagraph C above from date of entry of judgment.

E. COLLEGE and BOARD agree to cause McCULLOCH's personnel file to be purged of any reference of insubordination or any other allegation of misconduct associated with her employment at COLLEGE.

F. COLLEGE and BOARD agree to provide McCULLOCH a written general employment reference in the form attached hereto as Exhibit "A."



G. COLLEGE, BOARD, GOODMAN, FLANAGAN, VILES and MOSIER, their agents and employees, agree that they will not give any negative employment reference regarding McCULLOCH.

H. COLLEGE, BOARD, GOODMAN, FLANAGAN, VILES, MOSIER and their heirs, executors, administrators, successors and assigns, agree that they will not assert any claim or counterclaim against McCULLOCH on account of any matter or thing whatsoever that occurred at any time up to and including the present.

4. This agreement and release specifically includes all claims asserted by or on behalf of McCULLOCH against COLLEGE, BOARD, GOODMAN, FLANAGAN, VILES and MOSIER, together with any and all claims which might have been asserted by or on behalf of McCULLOCH in any suit, claim or grievance against COLLEGE, BOARD, GOODMAN, FLANAGAN, VILES and MOSIER, for or on account of any matter or thing whatsoever that occurred at any time, up to and including the present.

5. This agreement and release specifically includes all claims asserted by or on behalf of COLLEGE, BOARD, GOODMAN, FLANAGAN, VILES and/or MOSIER against McCULLOCH, together with any and all claims which might have been asserted by or on behalf of COLLEGE, BOARD, GOODMAN, FLANAGAN, VILES and/or MOSIER, in any suit, claim, counterclaim or grievance against McCULLOCH, for or on account of any matter or things whatsoever that occurred at any time, up to and including the present.

6. All parties represent and warrant that no persons other than the undersigned are entitled to assert any claims based on or arising out of McCULLOCH's employment, its termination and her contract and relationship to date with the COLLEGE. All parties agree to indemnify each other against any such claim or claims so asserted by any other party.

7. The terms and conditions set out herein are in compromise and settlement of disputed claims of alleged violations of McCULLOCH's civil rights and wrongful termination of her employment and are in compromise and settlement of any potential disputed claims or counterclaims by COLLEGE, BOARD, GOODMAN, FLANAGAN, VILES and MOSIER, the validity, existence or occurrence of such claims or counterclaims which are expressly denied by each respective party.

8. The EEOC's participation in this agreement does not waive or in any manner limit its rights to process or to seek relief in any other charge of discrimination or in any other action, other than Case No. 81-C-875-B, and other than those charges previously filed by McCULLOCH seeking personal individual relief, including but not limited to a charge filed by a member of the Commission.

9. All parties agree and understand that this agreement will have no force and effect on the claims and relief requested by the other plaintiffs in Case No. 81-C-868-B and it is understood that this agreement is not intended to limit, restrict or compromise the legal rights of such persons and the relief they are seeking. Provided, however, that nothing herein shall be construed as a waiver of any defenses which any defendant may raise to any claims for relief by any other plaintiffs in such case.

10. It is the intent of the parties hereto to fully and completely settle any and all disputes and to avoid all future controversy, subject to the rights reserved by the EEOC in Paragraph 8 above. All parties affirm that the only consideration for signing this agreement and release are the terms stated herein, that no other promise or agreement of any kind has been made by the parties to cause them to execute this instrument, and they fully understand the meaning and intent of this agreement and release, including but not limited to its final and binding effect. All parties acknowledge that they have been represented in the negotiation of this settlement by legal counsel and that

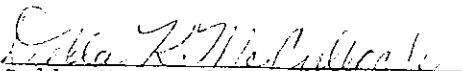
the parties' respective legal counsel have reviewed this settlement and advised their clients on this matter, and said counsels' signatures hereon represent their approval of the same. All parties further agree that they will not seek to have this agreement and release abrogated, set aside or voided, and that they will not appeal from the entry of any judgment and/or order of dismissal agreed to herein nor seek to have such judgment and/or dismissals vacated, set aside or declared void.

11. In any dispute arising under the terms of this agreement and in any suit to enforce the terms of this agreement, the parties agree that the prevailing party shall be entitled to reasonable attorney fees.

12. A copy of BOARD's resolution accepting MCCULLOCH's settlement offer and authorizing this settlement and agreement is attached hereto as Exhibit B and all parties covenant and agree that they have complied with all known laws of the State of Oklahoma covering the entering into and validity of this agreement, including but not limited to the Open Meeting Law, and in good faith believe the covenants contained herein to be legal and binding on all concerned.

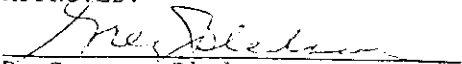
13. THE UNDERSIGNED FURTHER STATE THAT THEY HAVE CAREFULLY READ THE WITHIN AND FOREGOING "SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS" AND KNOW AND UNDERSTAND THE CONTENTS THEREOF, AND THAT THEY EXECUTE THE SAME AS THEIR OWN FREE ACT AND DEED.

In Witness Whereof, the undersigned have hereunto set their hands and seals:

  
Della K. McCulloch

Date: Dec. 16, 1983

APPROVED:

  
D. Gregory Bledsoe  
Attorney for MCCULLOCH

Date: 12-16-83

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

By \_\_\_\_\_

Date: \_\_\_\_\_

District Director

APPROVED:

\_\_\_\_\_  
Fred Landers  
Attorney for EEOC

Date: \_\_\_\_\_

ROGERS STATE COLLEGE AND THE BOARD  
OF REGENTS OF ROGERS STATE COLLEGE

By *Richard Mosier*

Date: 12/1/83

Chairman of the Board

By *Richard Mosier*

Date: 12/4/83

Richard Mosier, President  
Rogers State College

ATTEST:

*Rogers Tanss*

Date: 12-10-1983

Secretary of the Board

(SEAL)

APPROVED:

*J. Patrick Cremin*  
J. Patrick Cremin  
Attorney for Rogers State  
College, Board, Goodman,  
Flanagan, Viles and Mosier

Date: 12/5/83

APPROVED:

*John R. Carle*  
John R. Carle, General Counsel  
Rogers State College

Date: 12/9/83

*Wallace Goodman*  
Wallace Goodman

Date: 12/1/83

*Ilene Flanagan*  
Ilene Flanagan

Date: 12/7/83

APPROVED:

*Tom Armstrong*  
Tom Armstrong  
Attorney for Goodman and  
Flanagan

Date: 12/2/83

*Mildred Viles*  
Mildred Viles, Executrix of  
the Estate of Philip Viles,  
Sr., Deceased

Date: 12-15-83

APPROVED:

*Edna L. Card*  
Judge of the District Court  
Rogers County, Oklahoma

Date: 12-15-83

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

By Joseph H. Mitchell  
Joseph H. Mitchell  
Regional Attorney, EEOC

Date: 12/15/83

APPROVED:

Fred Lander  
Fred Lander  
Attorney for EEOC

Date: 12/15/83

ROGERS STATE COLLEGE AND THE BOARD  
OF REGENTS OF ROGERS STATE COLLEGE

By \_\_\_\_\_  
Chairman of the Board

Date: \_\_\_\_\_

By \_\_\_\_\_  
Richard Mosier, President  
Rogers State College

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary of the Board

Date: \_\_\_\_\_

(SEAL)

APPROVED:

\_\_\_\_\_  
J. Patrick Cremin  
Attorney for Rogers State  
College, Board, Goodman,  
Flanagan, Viles and Mosier

Date: \_\_\_\_\_

APPROVED:

\_\_\_\_\_  
John R. Carle, General Counsel  
Rogers State College

Date: \_\_\_\_\_

\_\_\_\_\_  
Wallace Goodman

Date: \_\_\_\_\_

\_\_\_\_\_  
Ilene Flanagan

Date: \_\_\_\_\_

APPROVED:

\_\_\_\_\_  
Tom Armstrong  
Attorney for Goodman and  
Flanagan

Date: \_\_\_\_\_

\_\_\_\_\_  
Mildred Viles, Executrix of  
the Estate of Philip Viles,  
Sr., Deceased

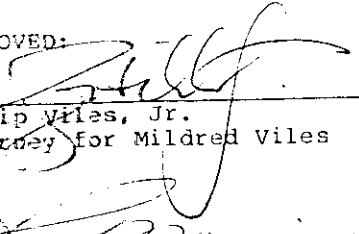
Date: \_\_\_\_\_

APPROVED:


\_\_\_\_\_  
Judge of the District Court  
Rogers County, Oklahoma

Date: \_\_\_\_\_

APPROVED:

  
Philip Viles, Jr.  
Attorney for Mildred Viles

Date: 12-14-83

  
Richard Mosier

Date: 12-9-83

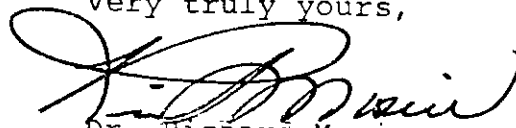
To Whom It May Concern:

Please be advised that Della K. McCulloch was employed as an instructor at Rogers State College and its predecessor Claremore Junior College from September 8, 1971 to December 18, 1981.

Ms. McCulloch was the founder and first instructor in the Child Development Department and also served as an instructor of Political Science and American History. She was innovatively involved in the growth of the Child Development Program while at the College.

Ms. McCulloch left the College as part of a college-wide retrenchment that included the elimination of several positions, including hers.

Very truly yours,



Dr. Richard Mosier  
President

AGENDA ITEM X - MC CULLOCH CASE - SETTLEMENT OFFER

Mr. Ron Watkins moved that the following resolution be adopted.

RESOLUTION

WHEREAS, the litigation involving the termination of Della McCulloch has had a divisive effect on the college, its students, faculty, administration and regents; and

WHEREAS, the litigation is continuing and not likely to conclude short of a full-blown trial and appeal taking several years and costing the college significant legal fees; and

WHEREAS, Ms. McCulloch was terminated as part of a reduction in force, but was terminated in such a way that there is a possibility she would prevail at the trial level; and

WHEREAS, this Board has been advised by special counsel and general counsel to accept the settlement offer of Ms. McCulloch's counsel dated October 25, 1983.

NOW, THEREFORE, be it resolved that in the spirit of compromise and not in any way as the admission of any wrongdoing, this Board of Regents does hereby accept the offer of settlement on behalf of Ms. McCulloch dated October 25, 1983 and offered by her counsel, Mr. D. Gregory Bledsoe, in all of its terms and conditions (copy attached).

Passed this 28th day of October, 1983.


  
\_\_\_\_\_  
Chairman, Board of Regents

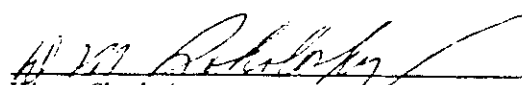
\_\_\_\_\_  
Secretary, Board of Regents

Mr. Goodman seconded the motion. Flanagan YES, Goodman YES, Sokolosky NO, Lyons YES, Mosley YES, Watkins YES. Motion carried.

AGENDA ITEM XI - ADJOURNMENT

Mr. Goodman moved that the meeting be adjourned. Mrs. Flanagan seconded the motion. Flanagan YES, Goodman YES, Sokolosky YES, Lyons YES, Mosley YES, Watkins YES. Motion carried. The meeting was adjourned at 4:40 P.M.

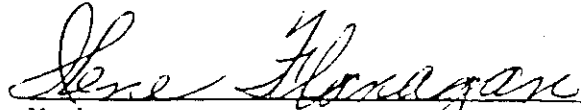
  
\_\_\_\_\_  
Chairman

  
\_\_\_\_\_  
Vice Chairman

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Member

  
\_\_\_\_\_  
Member

  
\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

In accord with the provisions of O.S. 25 301:314, an official copy of the agenda for the meeting was posted in the main lobby of Preparatory Hall on the Rogers State College campus at 3:00 P.M. on Wednesday, October 26, 1983.



D. GREGORY SLEDSON  
ATTORNEY AT LAW  
1515 SOUTH DENVER  
TULSA, OKLAHOMA 74119  
318-599-8113

October 25, 1983

The Board of Regents  
Rogers State College  
College Hill  
Claremore, OK 74017

Re: McCulloch v. Rogers  
State College, et al.

Dear Regents:

This letter shall convey the offer of Della McCulloch to the Board to settle all of her claims in the above-referenced litigation. This is the final offer of settlement, and no other offers will be made.

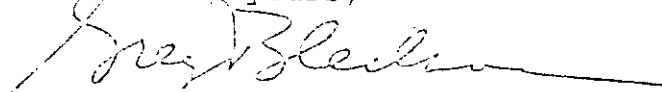
1. Payment of \$45,000.00 to McCulloch on behalf of all defendants in resolution of all her claims for damages for personal injuries in tort and for alleged violation of civil rights, the abandonment of Mrs. McCulloch's claim for reinstatement at the College and an entry of judgment for said amount against the appropriate College entity. Such payment shall be made in the following manner: \$15,000.00 within ten (10) days of signing a definitive settlement agreement, the remaining \$30,000.00 to be paid one-half three (3) months thereafter and the final payment to be made at the end of six months. All sums to bear interest until paid at 10% per annum.
2. Attorney fees and Court costs, pursuant to 42 U.S.C. Section 1988, 42 U.S.C. Section 2000(e-5)(k), 29 U.S.C. Section 216(b), 12 O.S. Sections 339 and 340, and 28 U.S.C. Section 1920, to be set and determined by the Court. Attorneys' fees to be paid in three (3) installments as in No. 1 above after the Court has determined the amount.

3. Dismissal with prejudice of all McCulloch's claims of whatsoever nature (except as reflected in No. 1 above) against all defendants in return for an agreement by all defendants not to assert any claims or counterclaims against McCulloch.
4. McCulloch agrees not to apply for any position at Rogers State College or its successors or affiliates.
5. McCulloch's personnel file shall be purged of any reference of insubordination and any other allegations of misconduct associated with her employment at Rogers State College and Claremore Junior College and the defendants and employees of Roger State College shall agree not to give any negative reference.
6. An appropriate official of Rogers State College shall provide a written general employment reference in the form attached hereto.
7. McCulloch shall withdraw all of her charges filed with the EEOC and cause them to dismiss their action.

This offer will remain open until November 1, 1983 and will then be withdrawn and of no future force and effect. If you accept it, please direct your counsel to draft the appropriate Settlement Agreement and the agreed to Judgment.

I look forward to your prompt response.

Very truly yours,



D. Gregory Bledsoe

DGB/jls

WHEREAS, the litigation involving the termination of Della McCulloch has had a divisive effect on the college, its students, faculty, administration and regents; and

WHEREAS, the litigation is continuing and not likely to conclude short of a full-blown trial and appeal taking several years and costing the college significant legal fees; and

WHEREAS, Ms. McCulloch was terminated as part of a reduction in force but was terminated in such a way that there is a possibility she would prevail at the trial level; and

WHEREAS, this Board has been advised by special counsel and general counsel to accept the settlement offer of Ms. McCulloch's counsel dated October 25, 1983.

NOW, THEREFORE, BE IT RESOLVED that in a spirit of compromise and not in any way as the admission of any wrongdoing, this Board of Regents does hereby accept the offer of settlement on behalf of Ms. McCulloch dated October 25, 1983 and offered by her counsel, Mr. D. Gregory Bledsoe in all of its terms and conditions.

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED  
DEC 27 1983

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

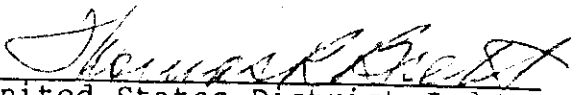
DELLA KAY McCULLOCH, et al., )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
ROGERS STATE COLLEGE, et al., )  
 )  
Defendants. )

No. 81-C-868-B

JUDGMENT.

Judgment is hereby granted in favor of plaintiff Della Kay McCulloch and against defendants Rogers State College and The Board of Regents of Rogers State College in the amount of Forty-five Thousand Dollars (\$45,000.00), to bear interest at the rate of ten percent (10%) per annum, compounded annually, from the 27<sup>th</sup> day of April, 1983, together with costs and attorney fees to be set by the Court.

Dated this 27<sup>th</sup> day of December, 1983.

  
United States District Judge

Entered

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

UTICA NATIONAL BANK & TRUST  
COMPANY, a National Banking  
Association,

Plaintiff,

v.

JOHN L. COCKRUM, an individual;  
J. T. HAILE, an individual; and  
TOM W. RUNYAN, an individual;  
and JOHN L. COCKRUM, J.T. HAILE,  
and TOM W. RUNYAN d/b/a JOINT  
VENTURE COMPANY, a limited  
partnership,

Defendants.

No. 83-C-388-B

MAK C. SILVER CLECK  
U.S. DISTRICT COURT

DEC 23 1983

FILED

J U D G M E N T

This cause having come on for hearing on the 19th day of December, 1983, upon Plaintiff's Motion for Summary Judgment, and the Court having examined the pleadings on file herein, having heard the arguments of counsel, having issued its Findings of Fact and Conclusions of Law, and having concluded that the plaintiff is entitled to summary judgment against the individual defendants on both the claims of the plaintiff and the counter-claim of the defendants,

IT IS ORDERED, ADJUDGED AND DECREED that judgment be entered in favor of the plaintiff, Utica National Bank & Trust Company, and against the defendants, John L. Cockrum, J. T. Haile and Tom W. Runyan, in the amount of \$879,649.57, together with post-judgment interest at the rate of 9.93% per annum, \$1,851.55 for

its costs of action, and attorney fees in the amount of \$21,692.16.

Dated this 23<sup>rd</sup> day of December, 1983.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC 23 1983

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

HOLD OIL CORPORATION,

Plaintiff,

vs.

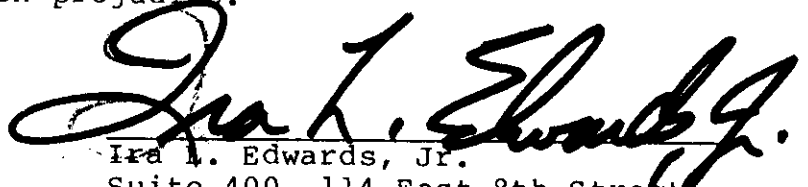
PRIDE PIPELINE COMPANY,

Defendant.

Case No. CIV-83-C-722-<sup>C</sup>~~E~~

SIPULATION OF DISMISSAL

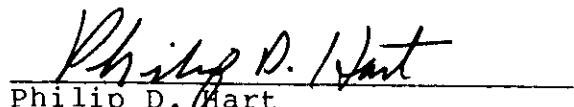
Come now plaintiff and defendant in the above-styled cause, by their undersigned attorneys, and advise the Court that this action has been resolved and concluded by compromise settlement agreement, and that the parties hereby stipulate that the action may be dismissed with prejudice.



Ira L. Edwards, Jr.  
Suite 400, 114 East 8th Street  
Tulsa, Oklahoma 74119  
Attorney for Plaintiff

OF COUNSEL:

Jones, Francy, Doris,  
Sutton & Edwards, Inc.  
Suite 400, 114 East 8th Street  
Tulsa, Oklahoma 74119



Philip D. Hart  
5th Floor, 100 Park Avenue  
Oklahoma City, Oklahoma 73102  
Phone: (405) 235-9621  
Attorney for Defendant

OF COUNSEL:

McAFEE & TAFT  
A Professional Corporation  
5th Floor, 100 Park Avenue  
Oklahoma City, Oklahoma 73102  
Phone: (405) 235-9621

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JERALD L. EMBREE,

Plaintiff,

vs.

BARBARA JO SMITH, Executrix  
and Personal Representative of  
Blaine Allman Smith, and  
BARBARA JO SMITH, an individual,

Defendant.

No. 83-C-570-B

JOINT STIPULATION OF DISMISSAL WITH PREJUDICE

COMES NOW all the parties to the above entitled cause, and pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure, and file this their joint stipulation of dismissal of the above cause.

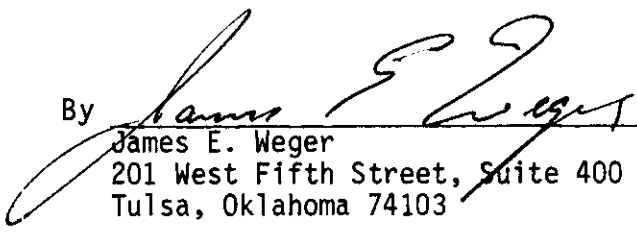
In support of this joint stipulation, the parties would show this Court that they have entered into a full, final and complete settlement of all claims involved in this action, rendering the need for further litigation before this Court unnecessary.

WHEREFORE, the Plaintiff, Jerald L. Embree, and the Defendant, Barbara Jo Smith, as Executrix and Personal Representative of the Estate of Blaine Allman Smith, and Barbara Jo Smith, an individual, pray that this Court dismiss the above entitled action with prejudice to the Plaintiff or the Defendant from bringing a similar action.

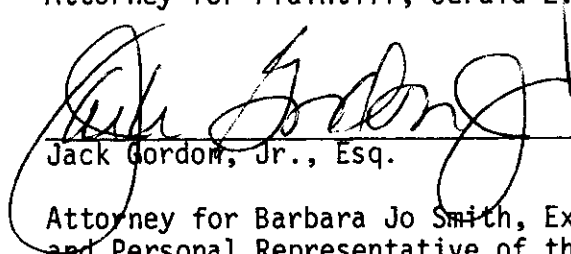


JONES, GIVENS, GOTCHER, DOYLE & BOGAN,  
INC.

By

  
James E. Weger  
201 West Fifth Street, Suite 400  
Tulsa, Oklahoma 74103

Attorney for Plaintiff, Jerald L. Embree

  
Jack Gordon, Jr., Esq.

Attorney for Barbara Jo Smith, Executrix  
and Personal Representative of the Estate  
of Blaine Allman Smith, and Barbara Jo  
Smith, individually

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 22 1983

J. D. OATES,

Plaintiff,

v.

MARGARET M. HECKLER,  
Secretary of Health and  
Human Services of the  
United States of America,

Defendant.

NO. 83-C-403-B

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

O R D E R

This action is brought to obtain judicial review and reversal or remand under 42 U.S.C. §405(g) of a decision of the defendant, Margaret M. Heckler, Secretary of Health and Human Services ("Secretary"), finding that plaintiff is ineligible for disability benefits or supplemental security income. The Secretary has filed a certified copy of the transcript of record pertinent to this review with his answer on September 30, 1983 (hereinafter designated as TR \_\_\_\_), and the parties have filed briefs concerning the defendant's administrative decision denying disability benefits to plaintiff.

In conducting this judicial review, it is the responsibility of the Court to examine the facts contained in the record, evaluate conflicts, and make a determination therefrom as to whether the facts support the several elements which make up the ultimate administrative decision. Heber Valley Milk Co. v. Butz, 503 F.2d 96 (10th Cir. 1974); Nickol v. United States, 501 F.2d 1389 (10th Cir. 1974).

I.

On March 15, 1983, the Appeals Council, Office of Hearings and Appeals, concluded there was no basis for granting a review (TR 4) of the decision of the Administrative Law Judge. Therefore, the decision of the Administrative Law Judge dated October 22, 1982, became the final decision of the Secretary. The Administrative Law Judge on that date made the following findings:

1. Claimant was found to be disabled as a result of arteriovenous malformation, left Sylvian fissure, post op, within the meaning of the Social Security Act, beginning December 23, 1975.
2. The claimant is 46 years of age, completed the seventh grade and worked as a truck driver for motor transportation.
3. The evidence shows claimant's medically determinable condition, in combination or in conjunction with other complaints, was not of sufficient severity beginning February 16, 1982, to limit his ability to perform light or sedentary work activity.
4. Considering the claimant's maximum work capacity, age, education, and past vocational experience, the claimant was not under a "disability" on February 16, 1982.
5. Entitlement to a period of disability and to disability insurance benefits ended with the close of April 1982, the second month after the month his disability ceased.
6. The claimant was not under a "disability" as defined by the Social Security Act, as amended, after February 16, 1982, continuing through the date of this decision. (TR-16)

Plaintiff was determined to be disabled effective December 23, 1975, due to arteriovenous malformation, left

Sylvian fissure, post op, and benefits were paid accordingly. Following a continuing disability evaluation, plaintiff was notified on February 23, 1982, that a determination had been made that plaintiff had the ability to engage in substantial gainful activity in February 1982; therefore, he was no longer eligible for Social Security Disability benefits. (TR 47-48). The Social Security Administration sent plaintiff a Social Security Termination Notice on April 6, 1982. On May 4, 1982, the plaintiff submitted a request for reconsideration of the decision. On May 7, 1982, upon reconsideration, the determination was affirmed (TR 52). On June 4, 1982, plaintiff filed a request for hearing.

On September 22, 1982, plaintiff appeared with his attorney for the hearing before the Administrative Law Judge and the testimony, as summarized, follows: (TR 19-42)

Plaintiff testified he was 46 years old and had an eleventh grade education. He left school before graduation; worked in the oil field for 10 years, and became a truck driver. He also had some three years experience in the Air Force testing radar and electronics equipment. He has not worked since 1976. Plaintiff was sent to vocational rehabilitation in Tulsa in 1976. The Vocational Rehabilitation Office sent him to neurologist, S.H. Shaddock, M.D. He regularly sees a neurologist, O.J. Mitchell, M.D., who prescribes his medication. He was examined at the request of the Social Security Administration by another neurologist, Dr. Walker. Since 1976 and 1982, he broke his left

arm at one time and hurt his ankle in another accident. Plaintiff stated that since his disability commenced in 1976 he talks somewhat better, sees somewhat better and still has weakness in the right side. He writes with his left hand and performs other ordinary functions such as drinking coffee and shaving with his left hand. He has had grip tests performed to determine the strength in his hands. His right arm is smaller than his left arm.

Plaintiff is able to care for his personal needs; handles his own financial matters; shops for groceries; and drives a car. He watches television, fishes, and reads. He has some trouble concentrating while reading. He was sent to vocational rehabilitation again this summer. He suffers somewhat from headaches, although he doesn't consider them a great problem, and the headaches have diminished over the past year.

Plaintiff is on Phenobarbital and Dilantin and takes an over-the-counter arthritis medication.

The medical evidence is summarized as follows:

(a) Report of Ronald L. Vincent, M.D., a neurologist in Spokane, Washington, dated March 17, 1976 (Exhibit 16)--Indicates that plaintiff was admitted to Sacred Heart Hospital in Spokane, Washington on December 23, 1975, with a subarachnoid hemorrhage, right hemiparesis, semi-coma and aphasia. Tests revealed an arteriovenous malformation at the left sylvian fissure. Subsequently, he was transferred to Deaconness Hospital in Spokane. Surgery was performed with a left-sided craniotomy.

The plaintiff was found to have a partial obliteration of the AV shunting. Followup tests showed gradual improvement of problems with headaches and aphasia and hemiparesis. He was then transferred to a nursing home for a six-week period of convalescence and physical therapy. Dr. Vincent reported there was rapid improvement of the aphasia and hemiparesis at the home, although he developed pain in the right arm and leg. He recommended plaintiff return to his home in Tulsa as soon as feasible.

(b) Report of S.H. Shaddock, M.D. of June 10, 1976 (Exhibit 26)--Plaintiff was referred to Dr. Shaddock for evaluation by the Vocational Rehabilitation Office in 1976. The doctor concluded plaintiff suffered from (1) residual right hemiparesis due to previous hemorrhage from arterial venous malformation, left cerebral hemisphere; (2) possible lumbar intervertebral disc disease; (3) lumbar myofascial strain; and (4) a seizure disorder due to the previous hemorrhage. The doctor reported plaintiff was fairly alert and well-oriented; had a moderate right hemiparesis; his speech was fairly good with no gross expressive aphasia. Discriminative touch was slightly diminished on the right. Visual fields were full on confrontation testing.

(c) Office Notes of O.J. Mitchell, M.D., from June 9, 1978 to November 11, 1981 (Exhibit 17)--On June 9, 1978, Dr. Mitchell reported that x-rays of plaintiff's back showed very mild hypertrophic degenerative changes L2-L3 and L5-S1. Motrin was prescribed.

On July 13, 1978, Dr. Mitchell reported urine testing had yielded no abnormalities; plaintiff's back pain was much better, and the Motrin was discontinued. Dr. Mitchell noted plaintiff complained of an impotency problem, difficulty with energy and depression. Dr. Mitchell prescribed Elavil.

On April 19, 1978, plaintiff was reported to be doing quite well, with his last seizure in 1975. He was still on 100 mg. of Dilantin t.i.d., 30 mg. of Phenobarbitol, t.i.d. Dr. Mitchell requested that someone help plaintiff fill out a form for a driver's license. He noted plaintiff's EEG showed paroxysmal left frontal temporal sharp and slow wave activity.

On November 13, 1979, he continued on Dilantin and Phenobarbitol. His exam was normal.

On April 7, 1980, a similar report was entered.

On November 4, 1980, he reported no seizures. The exam was normal.

On November 20, 1981, plaintiff reported no seizures. Dr. Mitchell noted plaintiff had gained some 40 pounds during the previous year. His blood pressure was slightly elevated on the diastolic.

(d) Hospital Report of August 19, 1980 (Exhibit 18)--Indicates plaintiff was admitted to Hillcrest Medical Center August 7, 1980, with a fractured left humerus. Plaintiff's arm was placed in a cast. He made satisfactory progress and was discharged August 19, 1980, with instructions to return to the office of the treating physician, Milton R. Workman, M.D., for followup care.

(e) Office Notes of M. R. Workman, M.D. from August 26, 1980 to November 16, 1981 (Exhibit 19)--Plaintiff was seen by Dr. Workman at his office for a series of followup exams for the broken arm. On October 30, 1981 plaintiff returned to Dr. Workman's office with a twisting type injury to his right ankle. The physician diagnosed the injury as sprained ankle and contusions about the knee. By November 16, 1981, the physician determined the patient was "much better" and was having fewer symptoms.

(f) Report of James C. Walker, M.D. of February 16, 1982 (Exhibit 20)--Upon referral of plaintiff by Social Security, the physician diagnosed plaintiff as exhibiting a mild right sided paresis secondary to a left cerebral blood clot and low back pain syndrome from an undetermined cause. The doctor stated that neurological examination revealed a rather quiet, tense man with no distress; cranial nerves were intact and deep tendon reflexes were moderately hyperactive in the lower aspects. Muscle testing did not reveal any weakness; the grip on both sides was approximately symmetrical. On gait, he did well on straight away and had a little trouble lifting the right foot on the toes and heels, as well as a small amount of trouble with tandem; however he had good station, coordination was intact and there was no tremor. Alternate motion rate was slightly defective in the right fingers and feet. Sensory examination failed to reveal any objective deficit in either the superficial, deep or cortical modalities. On straight leg raising, plaintiff could raise each



leg to about 80 degrees without pain; back motions were slightly limited in flexion. During examination plaintiff complained of weakness of the right side and a numb sensation of the whole arm and fingers except the thumb. He also complained of low back pain for the past 10 years.

In addition to the medical evidence, there is a report from the Vocational Rehabilitation Office, dated September 21, 1982, summarizing results of an evaluation of plaintiff conducted August 3-12, 1983 (Exhibit 25). The evaluator concluded plaintiff's all-around performance on tests was sub-standard, and he was not a feasible candidate for training.

## II.

The only proposition urged by plaintiff in support of his complaint is that the Secretary's decision is not supported by substantial evidence. Under the Social Security Act, the Secretary's findings, if supported by substantial evidence, are conclusive on judicial review and may not be disturbed by the courts. Markham v. Califano, 601 F.2d 533 (10th Cir. 1979) Disability is defined as an inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 42 U.S.C. §§416(i)(1), 423(d)(1)(A). Substantial evidence is such evidence as a reasonable mind might accept to support a conclusion. Richardson v. Perales, 402 U.S. 389, 401 (1971); Gardner v.

Bishop, 362 F.2d 917, 919 (10th Cir. 1966). Where there is substantial evidence in the record which supports a decision that there is no disability as defined by the Act, the decision of the Secretary must be affirmed. Trujillo v. Richardson, 429 F.2d 1149, 1150 (10th Cir. 1970).

The grid regulations of the Social Security Administration, 20 C.F.R. §404.1501 et seq. (1982) provide for the sequential evaluation of disability. The first step in evaluating disability is to determine whether the claimant is working and whether the work he is doing is "substantial gainful activity." 20 C.F.R. §404.1520(b) (1982). If it is found that claimant is engaged in substantial gainful employment, the claim is denied without reference to the subsequent steps in the sequence. If claimant is not employed, the second inquiry is whether claimant has "any impairment(s) which significantly limit(s) (claimant's) physical or mental ability to do basic work activities. 20 C.F.R. §404.1520(c) (1982). If claimant is found to have no "severe impairment", the claim is denied. If the administrative law judge finds a claimant has a "severe impairment", a third step must be followed.

In the case herein, the administrative law judge found that the claimant was not engaged in substantial gainful employment, but that plaintiff is able to perform light or sedentary substantial gainful activity (TR 15). Pursuant to 20 C.F.R. §404.1566, the administrative law judge noted a significant number of light and sedentary jobs exist in the region in which

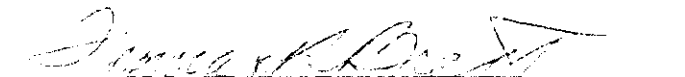
claimant resides; that according to Appendix 2 to 20 C.F.R. §404.1500, approximately 1600 separate sedentary and light unskilled occupations can be identified in eight broad occupational categories, each representing numerous jobs in the national economy.

The record confirms the Secretary's findings that there is substantial evidence that the plaintiff does not have a severe impairment as defined by the regulatory provisions. The evidence fails to establish plaintiff continues to be precluded from substantial gainful activity for which he is qualified considering his age, education, and past work experience. 20 C.F.R. §404.1520 (1982). The evidence fails to establish he is disabled within the meaning of the Act. 42 U.S.C. §§416(i)(1) and 423(d)(1)(A) (1976).

After thoroughly examining the administrative record before it, the Court is of the opinion that substantial evidence is contained therein to support the Secretary's decision that plaintiff is not disabled within the pertinent provisions of the Social Security Act.

Accordingly, the Secretary's decision should be affirmed and a judgment of affirmance will be entered this date.

ENTERED this 22<sup>nd</sup> day of December, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 22 1983

JACK G. SILVER, CLERK  
U.S. DISTRICT COURT

TOMMY D. OWENS,

Plaintiff,

v.

NO. 83-C-335-B

TIM WEST and THE ATTORNEY  
GENERAL OF THE STATE OF  
OKLAHOMA,

Respondents. )

O R D E R

This matter comes before the Court on the petition for a writ of habeas corpus of the petitioner, Tommy D. Owens.

Petitioner sets forth two grounds for relief in his petition: 1) trial court's (District Court of Tulsa County) refusal to set an appeal bond for petitioner violated his constitutional rights under the Fourteenth Amendment; and 2) his rights under the Bill of Rights of the Oklahoma Constitution (Article 2 §§8, 9) have been violated.

Petitioner was convicted and assessed a term of twenty years for Burglary in the Second Degree After Former Conviction of a Felony, on January 3, 1982. Petitioner contends that the trial court's refusal to grant him an appeal bond under the authority of 22 Okl.St. Ann. 1981, §1077 is a violation of his rights under the Bill of Rights in the Oklahoma Constitution (Article 2 §§8, 9) and his Fourteenth Amendment due process rights. 22 Okl.St. 1981, §1077 precludes issuance of an appeal bond to a person formerly convicted of a felony. Petitioner alleges that this

statute is in direct contravention of the Bill of Rights of the Oklahoma Constitution and is therefore unconstitutional. Petitioner, thus, claims that the utilization of an unconstitutional statute, by the trial court, to deny him an appeal bond placed him in double jeopardy of his liberty, and effectively denied him his rights under the Constitution of the State of Oklahoma, and under the Fourteenth Amendment of the United States Constitution.

Petitioner petitioned for a writ of habeas corpus in the Court of Criminal Appeals of the State of Oklahoma. In his petition he alleged only "state law" issues dealing with the violation of his rights under the Constitution of the State of Oklahoma, without putting forth any issue regarding violation of his Fourteenth Amendment rights. The Court of Criminal Appeals denied petitioner's writ of habeas corpus on the basis of the issues set out therein.

28 U.S.C. §2254, Rule 4, states, "If it plainly appears from the face of the petition and any exhibits annexed to it that the petitioner is not entitled to relief in the district court, the judge shall make an order for its summary dismissal and cause the petitioner to be notified." The United States Supreme Court has held in Rose v. Lundy, 445 U.S. 509, 71 L.Ed.2d 379, 102 S.Ct. 1198 (1982), that a federal district court must dismiss a petition for writ of habeas corpus containing any claims that have not been exhausted in the state courts. Where a federal habeas corpus petitioner has not exhausted his available state

remedies, appropriate disposition of the action is normally to deny present petition without prejudice to afford petitioner the opportunity to exhaust those remedies. Green v. Wyrick, 414 F.Supp. 343, 349 (1976), affirmed 542 F.2d 1178.

Since it is apparent from the face of the petition that petitioner has failed to exhaust state remedies (petitioner stating a ground for relief based upon violation of his Fourteenth Amendment rights in the petition before this Court, while no mention of such a ground was stated in the petition before the state court), the petition is dismissed.

IT IS SO ORDERED.

DATED this 22<sup>nd</sup> day of December, 1983.

A handwritten signature in cursive script, reading "Thomas R. Brett", written over a horizontal line.

THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC 22 1983  
JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

JAMES E. MCEACHERN,

Plaintiff,

v.

STONHARD, INC.,  
a Delaware corporation,

Defendant.

No. 83-C-299-B

J U D G M E N T

In keeping with the Findings of Fact and Conclusions of Law entered this date, the plaintiff, James E. McEachern, is granted judgment against the defendant, Stonhard, Inc., in the amount of Five Thousand Five Hundred Twenty Nine and 32/100 Dollars (\$5,529.32), plus pre-judgment interest at the rate of 6% from November 12, 1982 and post-judgment interest at the rate of 9.93% per annum, plus the costs of this action.

ENTERED this 22nd day of December, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED  
DEC 22 1983

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

TALON PETROLEUM, C.A., )  
HIDROCARBUROS Y DERIVADOS, )  
C.A., and HIDECA OIL INTER- )  
NATIONAL, )

Plaintiffs-Appellants, )

v. )

NO. 81-C-270-B

HOME-STAKE PRODUCTION COMPANY, )

Defendant-Appellee. )

O R D E R

This matter comes before the Court on the Findings and Recommendations of the Magistrate, filed October 6, 1983, concerning the appeal from the judgment of the Bankruptcy Court entered June 11, 1981. In that judgment the Bankruptcy Court ordered that Royce H. Savage, Trustee of Home-Stake Production Company ("Home-Stake") recover for the benefit of the 1970 Program participants, from Talon Petroleum, C.A. Hidrocarburos y Derivados, C.A., and Hideca Oil International, jointly and severally, the sum of \$627,671.55; and that Royce H. Savage, Trustee of Home-Stake, recover for the benefit of the 1971 Program participants, from Talon Petroleum, C.A., Hidrocarburos y Derivados, C.A., and Hideca Oil International, jointly and severally, the sum of \$1,062,442.

The Magistrate recommended the judgment of the Bankruptcy Court be affirmed. Plaintiffs-Appellants have objected to the Magistrate's Findings and Recommendations. No specific



objections are addressed to the Magistrate's lengthy analysis; the appellants merely refer the Court to their briefs of February 12, 1982 and May 5, 1982, challenging the judgment rendered by the Bankruptcy Court.

The Court has made a de novo examination of the record and the briefs of the parties on appeal. The standard for review of the Bankruptcy Court's decision is whether the bankruptcy judge's findings were clearly erroneous, or whether the Court is left with a "definite and firm conviction that a mistake has been committed" in the bankruptcy judge's findings. In re McGinnis, 586 F.2d 162, 164 (10th Cir. 1978). Based upon this standard, the Court has made the following analysis of appellants' arguments:

1) Entitlement to Nationalization Proceeds--Appellants contend participants in the programs are not entitled to share in the proceeds of the nationalization indemnity Talon received because participants had no interest in any property seized by the Venezuelan government. They argue that under the terms of the Supplemental Order of the Bankruptcy Court of June 6, 1974, authorizing the sale of Home-Stake's interest in Talon Petroleum to Hideca, the participants are entitled to share in the proceeds of a nationalization indemnity only if property in which the participants had a contractual or other interest was seized by the Venezuelan government. Appellants further contend that although participants were joint venturers with Talon, they did not have a contractual or other interest in the property seized by the Venezuelan government.

However, upon reviewing the Supplemental Order, the agreements between the participants and the debtor corporations, the prospectus of the programs and the joint venture agreements between 1970 Program Corp. and Talon and the 1971 Program Corp. and Talon, it is the view of the Court that the parties contemplated the participants in the 1970 and 1971 programs would be entitled to share in the indemnity proceeds in the event joint venture properties were nationalized. The participants, by virtue of their position as joint venturers, had the requisite contractual or other interest in property seized by the Venezuelan government--that is, the assets acquired and employed in operating the mineral concessions. Roby v. Day, 635 P.2d 611 (Okla. 1981); Clark v. Addison, 322 P.2d 256 (Okla. 1957). Therefore, the participants were entitled to share in the proceeds of the indemnity awarded by the Venezuelan government.

2) Allocation of the Guarantee Fund Charge--Appellants assert that even if the participants are entitled to a share of the proceeds of indemnity, the Bankruptcy Court misallocated the Guarantee Fund charge assessed by the Venezuelan government. The Court has reviewed the Magistrate's Findings and Recommendations, the findings of the Bankruptcy Court and the testimony of David E. Melendy and N.J. Becks. Based upon this review, the Court cannot conclude the Bankruptcy Judge's finding is clearly erroneous, nor is the Court left with the "'definite and firm conviction that a mistake has been committed'" in the Bankruptcy Judge's findings. In re McGinnis, 586 F.2d 162, 164 (10th Cir.

1978). Therefore, the Court will not disturb the Bankruptcy Judge's order in this regard.

3) Joint and Several Liability of Hideca--The Bankruptcy Judge in his "Order Amending and Supplementing Findings of Fact and Conclusions of Law", filed June 11, 1981, concluded that Hideca and Talon are jointly liable for the payment of nationalization proceeds and oil sale proceeds to participants. Appellants contend the Bankruptcy Judge made this ruling on the basis of its conclusion that Talon was the alter ego of Hideca, that the record is insufficient to support a conclusion that Talon is the alter ego of Hideca, and that the Judge failed to make any additional findings of fact or conclusions of law to support its ruling. The Bankruptcy Judge cited Paragraphs (A.) and (C.) of Section 6 of the sales terms set out in the Supplemental Order of June 6, 1974. The court therein referred to obligations of "Talon and Hideca" and "Talon and/or Hideca." The judge also referred to the Force Majeure clause of the Supplemental Order, which places a duty on "Hideca and/or Talon" to pay to participants their proportionate share of nationalization proceeds, in support of his finding of joint and several liability to participants. In addition, the Magistrate cites numerous other portions of the Supplemental Order which indicate Hideca and Talon were to be held jointly and severally liable for payment of nationalization proceeds to participants. The Court agrees with the Magistrate that the Bankruptcy Judge's construction of the Supplemental Order with respect to joint and several liability should be affirmed.

4) Liability of 1970 Program Participants--The Bankruptcy Court held Paragraph 3B of the Terms and Conditions of Sale of the Supplemental Order (p. 14) released the 1970 participants from all claims by Talon with respect to the business operations of the 1970 Program before February 16, 1974. Paragraph 3B recited the payment by Hideca and Talon to the debtor corporations of an amount constituting a "full, complete and final accounting for all proceeds of oil produced for the account of the Debtor Corporations and the Participants" prior to February 16, 1974, as well as a "full settlement of all other obligations of Hideca and Talon" to the debtor corporations before that date.

The Court concurs that the language of 3B and 3C indicates the intent of the parties that the accounting be full, complete and final as between Talon and the Debtor Corporations and Participants since Talon--as recipient of all proceeds from the sale of oil--was in a position to deduct any sums due it as operator before remitting the balance of the proceeds to the 1970 Program. Further, there is no evidence that during proceedings leading to the sale to Hideca, Talon asserted or had any reason to assert claims against the participants at the time of the sale. To the contrary, in Paragraph 3C of the Order, it was stated: "In addition, as further consideration for said rights and properties, Talon hereby relinquishes any and all claims it has against Home-Stake for monies owed to Talon by Home-Stake." Thus the Court concludes the Bankruptcy Court's interpretation is reasonable and should be affirmed.

5) Liability for Venezuelan Income Taxes--Appellants

contend the 1970 Program Participants should be required to account to Talon for their respective shares of all 1973 Venezuelan income taxes assessed to Talon. In 1975, Talon was served with a tax bill for income taxes attributable to the 1970 Program. The bill was never paid. The Bankruptcy Court held that since Talon did not pay the bill, the loss it asserts is illusory rather than real. Further, the Bankruptcy Court held 3B of the sales terms of the Supplemental Order barred Talon from demanding payment from the 1970 Program participants. The Court agrees with this conclusion.

Appellants also challenged the Bankruptcy Judge's refusal to hear additional tax-based claims relating to 1970 Program operations on the ground that the additional claims were not raised until October 30, 1978--literally the eve of the trial in the Bankruptcy Court. The suit had been pending since 1975. F.R.Civ.P. 15(a) provides that a party may amend a pleading by leave of court, "and leave shall be freely given when justice so requires." However, leave need not be granted in a situation involving undue delay or where the opposing party would be unduly prejudiced. Foman v. Davis, 371 U.S. 178, 182 (1962). See also, R.E.B., Inc. v. Ralston Purina Co., 535 F.2d 749, 751 (10th Cir. 1975). The Bankruptcy Court concluded there was undue delay by appellants in offering the amendments and that the addition of the claims, if permitted, would result in prejudice to the appellants should the trial proceed as scheduled. Therefore, it

did not permit amendment. The Court agrees with the Magistrate that the Bankruptcy Court's holding did not constitute an abuse of discretion and should be permitted to stand.

6) Entitlement of 1970 Participants to 1975 Profits--The Bankruptcy Court found Talon liable for payment to the participants in the 1970 Program of \$122,046, their share of profits for that year. Appellants contend the "profit" for that year was artificial and resulted only from an agreement between Talon and the Venezuelan government to reduce Talon's taxes in such a way as to result in neither a loss or gain for that year. The special tax arrangement with the Venezuelan government took into account cash operating expenses and amortization and depreciation.

Net cash income for the 1970 Program for 1975 was \$203,275--of which \$122,046 would ordinarily go to the participants. However that year, Talon charged off \$205,275 in depreciaton and amortization expenses--expenses which hadn't been deducted from net proceeds in previous years. Talon's decision to do so that particular year was based on the "feeling" that because of the "special deal by which the participants were protected not paying a tremendous amount of tax," that 1975 should be treated differently, according to N.J.Becks. He further stated the decision was based "merely on sentiment and not on accounting principles."

It was the Bankruptcy Court's conclusion that under the joint venture agreements the participants were entitled to net

proceeds without deduction for amortization and depreciation. The Court further concluded that the special tax arrangement was between Talon and the Venezuelan government and did not reflect any intent by the participants to relinquish their share of net proceeds; and that there was no evidence suggesting that the accounting of Talon for proceeds due the participants was to be on any basis other than for net cash proceeds without deduction for amortization and depreciation. The Court agrees with the Magistrate that the Bankruptcy Judge's conclusion should be affirmed.

#### CONCLUSION

Based upon the Court's review, the Magistrate's Findings and Recommendations are hereby adopted and incorporated herein with the following exceptions and changes:

- The profit and loss ratios of the parties, set forth on page 26 of the Findings and Recommendations, should be: "Home-Stake 1970 99.9% and Talon .1%".
- The case citation starting on the fourth line of page 36 of the Findings and Recommendations should be: "O.K. Boiler & Welding Co. v. Minnetonka Lumber Co., 229 P. 1045, 1048 (Okla. 1924); McKeel v. Mercer, 246 P. 619, 622 (Okla. 1926)."

The judgment of the Bankruptcy Court is hereby affirmed.

ENTERED this 22<sup>nd</sup> day of December, 1983.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

DEC 22 1983

JAMES E. POE  
U.S. DISTRICT COURT

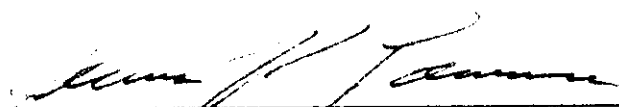
IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

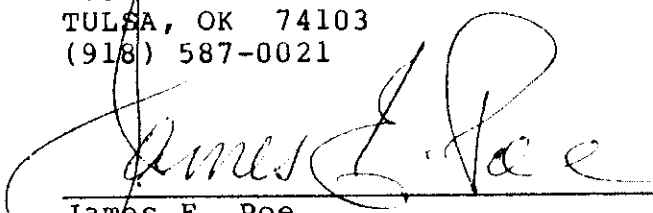
LADD PETROLEUM CORPORATION, )  
 )  
Plaintiff, )  
 )  
vs. ) No. 82-C-504-E  
 )  
GENERAL ENERGY COMPANY, )  
INC., )  
 )  
Defendant. )

STIPULATION OF DISCONTINUANCE

The parties to the above action do hereby consent, pursuant to Rule 41 (a) of the Federal Rules of Civil Procedure, to the dismissal of this action without costs and without prejudice.

DATED this 22<sup>nd</sup> day of December, 1983.

  
James P. Laurence  
OWENS & MCGILL, INC.  
Attorneys for Plaintiff  
1606 FIRST NATIONAL BANK BUILDING  
TULSA, OK 74103  
(918) 587-0021

  
James E. Poe  
Attorney for Defendant  
Suite 740, Grantson Building  
Tulsa, OK 74103  
(918) 585-5537



IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

DEC 22 1983


U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

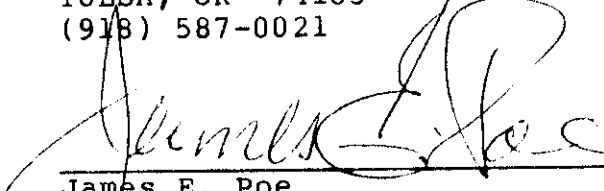
LADD PETROLEUM CORPORATION, )  
 )  
Plaintiff, )  
 )  
vs. ) No. 82-C-503-E  
 )  
PRODUCER'S GROUP, INC., )  
 )  
Defendant. )

STIPULATION OF DISCONTINUANCE

The parties to the above action do hereby consent, pursuant to Rule 41(a) of the Federal Rules of Civil Procedure, to the dismissal of this action without costs and without prejudice.

DATED this 22<sup>nd</sup> day of December, 1983.

  
James P. Laurence  
OWENS & MCGILL, INC.  
Attorneys for Plaintiff  
1606 FIRST NATIONAL BANK BUILDING  
TULSA, OK 74103  
(918) 587-0021

  
James E. Poe  
Attorney for Defendant  
Suite 740, Grantson Building  
Tulsa, OK 74103  
(918) 585-5537

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

LENNOX INDUSTRIES, INC., an  
Iowa Corporation,

DEC 21 1983

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

Plaintiff,

**VS.**

CLINTON D. BRAME and MARLOW-  
JOHNSON, LTD.,

Defendants.

No. 83-C-139-B

## O R D E R

This matter came before me the undersigned Judge of the United States District Court upon the parties stipulation for dismissal of the defendants' counterclaim against the plaintiff. After reviewing the stipulation and the pleading entitled "Dismissal of Counterclaim of Defendants Marlow-Johnson, Ltd. and Clinton D. Brame", the Court finds that the defendants' counterclaim should be and is hereby dismissed with prejudice.

IT IS THEREFORE ORDERED by the Court that the defendants' counterclaim is dismissed with prejudice and that each party shall bear its or his own costs.

S/ THOMAS R. BRETT

U. S. DISTRICT JUDGE

**FILED**

DEC 21 1983

**Jack C. Silver, Clerk  
U. S. DISTRICT COURT**

CIVIL ACTION NO. 82-C-1038-B

Good cause having been shown, it is hereby ORDERED, ADJUDGED AND DECREED that the above-referenced action is hereby dismissed without prejudice.

Dated this 20th day of December, 1983.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

*Entered*

**FILED**

**DEC 21 1983**

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**Jack C. Silver, Clerk  
U. S. DISTRICT COURT**

DONALD E. HISE,

Plaintiff,

vs.

MARGARET M. HECKLER,  
Secretary of Health and  
Human Services of the  
United States of America,

Defendant.

CIVIL ACTION NO. 83-C-699-B

O R D E R

For good cause shown, pursuant to 42 U.S.C.  
§405(g), this cause is remanded for further administrative  
action.

Dated this 20<sup>th</sup> day of December, 1983.

  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 21 1983

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

JOHN RICHARD (DICK) ANDERSON, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
STATE OF ARKANSAS, et al., )  
 )  
Defendants. )

No. 83-C-1033-C ✓

O R D E R

Now before the Court for its consideration, sua sponte, is the petition of John Richard Anderson for a writ of habeas corpus, pursuant to 28 U.S.C. Sec.2254. Petitioner alleges that a state detainer has been issued against him by the District Court of Miller County, Arkansas, charging him with the crime of armed robbery. Petitioner claims that his constitutional right to a speedy trial has been violated by the failure of defendants to seek jurisdiction over his person. Petitioner apparently asks only that the warrant and detainer be dismissed with prejudice.

It is well-established that a prisoner seeking to challenge, by means of a federal writ of habeas corpus, the validity of an untried criminal charge on which a detainer is based (as opposed to any effects on the conditions of confinement), must file his petition in the federal district court for the district wherein the charge is pending. Baity v. Ciccone, 379 F.Supp. 552 (W.D.Missouri, S.D., 1974), (appeal dismissed 507 F.2d 717, 8th

Cir. 1974). The court in Baity further concluded that it had no power to grant the relief requested:

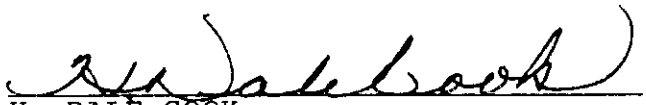
...[I]n order to possess jurisdiction in a case involving a challenge to an untried criminal charge on which a detainer is based, a federal district court must possess the power to grant relief, which would entail possessing the power to direct in personam, that the pending charge be dismissed. However, a federal district court in the state and district of confinement simply has no state officer within its jurisdiction whom it can direct to dismiss the pending charges, and there is no way of enforcing any writ to that effect which might be issued.

Id., 556-57. See also Norris v. State of Georgia, 522 F.2d 1006 (4th Cir. 1975); Wingo v. Ciccone, 507 F.2d 354 (8th Cir. 1974).

However, jurisdiction by the appropriate federal court in the State of Arkansas may not presently be proper, since the record does not indicate that the petitioner has exhausted his state court remedies within the State of Arkansas nor has he shown such remedies to be inadequate or ineffective. Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484, 489-490, 93 S.Ct. 1123, 35 L.Ed.2d 443, 449 (1973).

Therefore, it is the Order of the Court that the petition herein should be and hereby is dismissed without prejudice.

It is so Ordered this 21<sup>st</sup> day of December, 1983.


  
H. DALE COOK  
Chief Judge, U. S. District Court



corpus." Prieser v. Rodriguez, 411 U.S. 475 (1972). Because the plaintiff has not alleged exhaustion of available state remedies or that state remedies are unavailable to him, the Court cannot consider such a claim. See Prock v. District Court of Pittsburg County, 630 P.2d 772 (Okla. 1981). If the plaintiff wishes to pursue the habeas corpus remedy, he may do so by obtaining appropriate forms from the Clerk of this Court, after properly exhausting state remedies.

It is therefore the Order of this Court that this action should be and hereby is dismissed in all respects.

It is so Ordered this 21<sup>st</sup> day of December, 1983.

  
H. DALE COOK  
Chief Judge, U. S. District Court



IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

SIXTH GEOSTRATIC ENERGY DRILLING  
PROGRAM 1980, et al.,

Plaintiffs,

-vs-

ANCOR EXPLORATION COMPANY,  
et al.,

Defendants.

FIRST AND SECOND ANCOR-GEOSTRATIC  
DRILLING PARTNERSHIPS 1980,

Plaintiffs,

-vs-

SIXTH AND SEVENTH GEOSTRATIC  
ENERGY DRILLING PROGRAMS 1980,  
ROBERT S. SINN and JAN S.  
MIRSKY,

Defendants.

No. 81-C-576-B  
(Consolidated Number)

STIPULATION OF DISMISSAL BETWEEN PLAINTIFFS  
SIXTH, SEVENTH AND EIGHTH GEOSTRATIC ENERGY  
DRILLING PROGRAMS 1980, FIRST, SECOND AND THIRD ANCOR-  
GEOSTRATIC DRILLING PARTNERSHIPS 1980, ROBERT S. SINN  
AND JAN S. MIRSKY, AND DEFENDANTS DOCKO, INC.,  
A/S DOCKO, OLE GUNNAR SELVAAG AND 1980 DRILLING VENTURE

Plaintiffs Sixth, Seventh and Eighth Geostratic Energy  
Drilling Programs 1980, First, Second and Third Ancor-Geostratic  
Drilling Partnerships 1980, Robert S. Sinn and Jan S. Mirsky,  
and defendants Docko, Inc., A/S Docko, Ole Gunnar Selvaag and  
1980 Drilling Venture, through their respective counsel, hereby  
advise the Court that all existing disputes between them involved  
in this litigation have been settled. Accordingly, plaintiffs

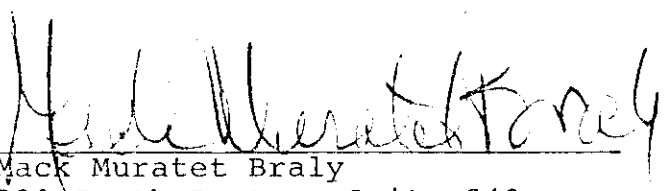
Sixth, Seventh and Eighth Geostratic Energy Drilling Programs 1980, First, Second and Third Ancor-Geostratic Drilling Partnerships 1980, Robert S. Sinn and Jan S. Mirsky and defendants Docko, Inc., A/S Docko, Ole Gunnar Selvaag and 1980 Drilling Venture hereby request that the Court enter an Order dismissing all claims of Sixth, Seventh and Eighth Geostratic Energy Drilling Programs 1980, First, Second and Third Ancor-Geostratic Drilling Partnerships 1980, Robert S. Sinn and Jan S. Mirsky against Docko, Inc., A/S Docko, Ole Gunnar Selvaag and 1980 Drilling Venture, and all cross-claims and counterclaims asserted by Docko, Inc., A/S Docko, Ole Gunnar Selvaag and 1980 Drilling Venture against Sixth, Seventh and Eighth Geostratic Energy Drilling Programs 1980, First, Second and Third Ancor-Geostratic Drilling Partnerships 1980, Robert S. Sinn and Jan S. Mirsky, with prejudice to the bringing of a future action. The parties have further stipulated that each shall bear their own attorneys' fees and costs.

This stipulation of settlement does not involve nor is it a dismissal of the claims of any party against defendant Harry E. McPhail, Jr., or the claims of Sixth, Seventh and Eighth Geostratic Energy Drilling Programs 1980, First, Second and Third Ancor-Geostratic Drilling Partnerships 1980, Robert S. Sinn and Jan S. Mirsky against Ancor Exploration Company and related entities.

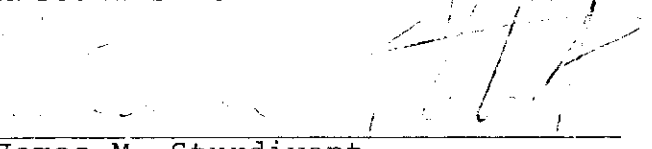
DATED this 21 day of December, 1983.

Paul Kurland  
BAER MARKS & UPHAM  
299 Park Avenue  
New York, New York 10171  
(212) 702-5700

and

  
Mack Muratet Braly  
320 South Boston, Suite 840  
Tulsa, Oklahoma 74103  
(918) 582-2806

ATTORNEYS FOR THE PLAINTIFFS.

  
James M. Sturdivant  
Oliver S. Howard  
GABLE & GOTWALS  
20th Floor, Fourth National Bldg.  
Tulsa, Oklahoma 74119  
(918) 582-9201

ATTORNEYS FOR THE DEFENDANTS,  
DOCKO, INC., A/S DOCKO  
OLE GUNNAR SELVAAG AND 1980  
DRILLING VENTURE.

CERTIFICATE OF MAILING

The undersigned hereby certifies that on this 21 day of Dec, 1983 a true, correct and exact copy of the foregoing instrument has been served upon all parties by mailing same to:

Jim K. Goodman  
Crowe & Dunlevy  
1800 Mid-America Tower  
20 North Broadway  
Oklahoma City, Oklahoma 73102

Joe A. Farris  
816 Enterprise Building  
Tulsa, Oklahoma 74103

Paul Kurland  
Baer Marks & Upham  
299 Park Avenue  
New York, New York 10171

Mack Muratet Braly  
320 South Boston, Suite 840  
Tulsa, Oklahoma 74103

James M. Sturdivant  
Gable & Gotwals  
20th Floor, Fourth National Bank Building  
Tulsa, OK 74119

Clark O. Brewster

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

DORIS L. WEST, an individual,) )  
 ) )  
Plaintiff, ) )  
 ) )  
vs. ) )  
 ) )  
DOWLING PETROLEUM, INC., ) )  
a Texas Corporation, ) )  
 ) )  
Defendant. ) )

No. 83-C-907-C

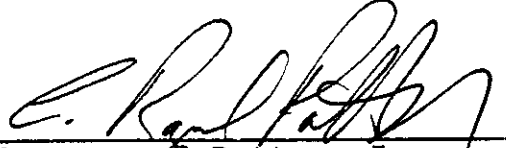
**FILED**

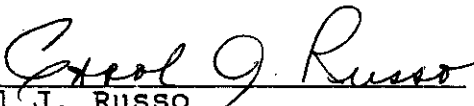
DEC 20 1983

**Jack C. Smith, Clerk**  
**U. S. DISTRICT COURT**

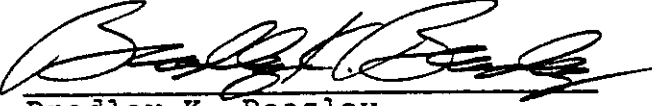
STIPULATION OF  
DISMISSAL WITH PREJUDICE

Plaintiff, Doris L. West, and Defendant, Dowling Petroleum, Inc., by and through their respective counsel hereby agree to dismiss the above captioned matter with prejudice with the Plaintiff bearing the costs thereof, pursuant to Federal Rule of Civil Procedure 41(a)(1).

  
C. Raymond Patton, Jr.  
Fredrickson, Merrick & Patton  
2700 First City Place  
Oklahoma City, Oklahoma 73102  
(405) 235-4127

and   
Carol J. Russo  
800 Grantson Building  
111 West 5th Street  
Tulsa, Oklahoma 74103  
(918) 587-9411

ATTORNEYS FOR PLAINTIFF,  
DORIS L. WEST

  
Bradley K. Beasley  
Of Boesche, McDermott & Eskridge  
320 South Boston, Suite 1300  
Tulsa, Oklahoma 74103  
(918) 583-1777

ATTORNEYS FOR DEFENDANT,  
DOWLING PETROLEUM, INC.

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 21 1983

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

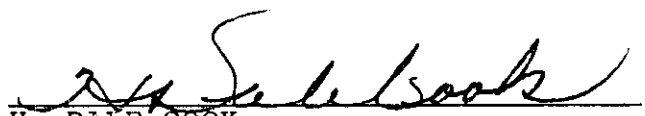
JOHN B. ROSSO, JR.,  
Plaintiff,  
vs.  
DAVE FAULKNER,  
S. M. FALLIS, JR.,  
Defendants.

No. 80-C-447-C ✓

O R D E R

It is the Order of the Court that the counterclaim of defendant Fallis should be and hereby is dismissed for failure of defendant to pursue his counterclaim pursuant to the previous Order of this Court filed on November 28, 1983.

It is so Ordered this 21<sup>st</sup> day of December, 1983.

  
H. DALE COOK  
Chief Judge, U. S. District Court

Entered

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

DEC 20 1988

CLERK OF COURT  
U.S. DISTRICT COURT

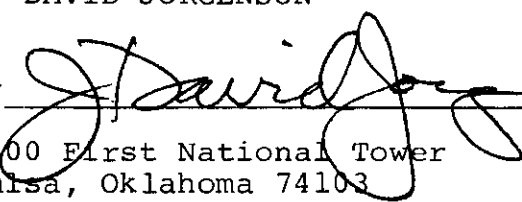
SAMSON RESOURCES COMPANY,  
an Oklahoma corporation,  
  
Plaintiff,  
  
vs.  
  
SUN EXPLORATION AND PRODUCTION  
COMPANY, a Delaware corporation,  
  
Defendant.

No. 82-C-992-B

STIPULATION OF DISMISSAL

Plaintiff Samson Resources Company and Defendant Sun  
Exploration and Production Company, pursuant to Fed.R.Civ.P. 41  
(a)(1), stipulate to the dismissal of, and hereby dismiss, the  
above captioned action, including all claims and counterclaims  
asserted herein, with prejudice, each party to bear its own costs  
and attorneys' fees.

JAMES L. KINCAID  
J. DAVID JORGENSEN

By   
2400 First National Tower  
Tulsa, Oklahoma 74103  
(918) 586-5711

Attorneys for Plaintiff  
SAMSON RESOURCES COMPANY

OF COUNSEL:  
CONNER, WINTERS, BALLAINE,  
BARRY & MCGOWEN  
2400 First National Tower  
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SUN EXPLORATION AND PRODUCTION  
COMPANY

By

  
J. PHILIP ADAMSON

JOHN L. RANDOLPH, JR.

Attorneys for Defendant

PRAY, WALKER, JACKMAN,

WILLIAMSON & MARLAR

2200 Fourth National Building

Tulsa, Oklahoma 74119

(918) 584-4136



UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

DEC 20 1983

W. A. Silver  
CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KELLY RAKE,

Defendant.

CIVIL ACTION NO. 83-C-424-E

O R D E R

Good cause having been shown, it is hereby ORDERED,  
ADJUDGED AND DECREED that the above-referenced action is hereby  
dismissed without prejudice.

Dated this 19th day of December, 1983.

*S/ J. W. C. [Signature]*

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

DEC 20 1983

DALE LITCHFIELD,

Plaintiff,

vs.

TEXACO INC.,

Defendant.

No. 83-C-397-E

ORDER GRANTING TEXACO'S MOTION TO DISMISS

On December 6, 1983, an evidentiary hearing was held pursuant to an Order of this Court dated September 20, 1983, wherein the Court stated:

The Court has before it the motion of Defendant Texaco Inc. to dismiss the Amended Complaint in this action for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure. In support of its motion, Defendant asserts that suit against it is barred by the provisions of 85 O.S. Supp. §§ 11 and 12, in that Plaintiff was awarded compensation for injuries by final order of the Worker's Compensation Court against his immediate employer, and such award constitutes Plaintiff's sole remedy. In order to fall within the immunity from suit at common law afforded a remote employer, the Defendant must show that the work performed by the independent contractor was a "necessary and integral" part of its business, under the task related standard established by Murphy v. Chickasha Mobile Homes, Inc., 611 P.2d 243 (Okla. 1980). This Court finds that such a determination requires an evidentiary hearing; and

THEREFORE ORDERS that an evidentiary hearing be set for the 4th day of October, 1983, at 9:30 o'clock a.m.

Said evidentiary hearing was duly continued until December 6, 1983, at which time Plaintiff appeared in person with his attorney of record, Ben A. Goff; and, Texaco appeared by its attorney, Jack M. Short. From the testimony adduced from witnesses in open court along with documents admitted into evidence, the Court finds that the work performed by the Plaintiff as an employee of the independent contractor, i.e., cleaning sludge and debris from a storm drain at the Texaco refinery owned and operated by Texaco, was a "necessary and integral" part of Texaco's business of refining petroleum, in that:

1. It is directly associated with the day-to-day activity carried on by Texaco's line of trade, industry or business; or,
2. Would customarily be done in that line of business.

In addition to the foregoing, the Court has examined the pleadings and studied the briefs on file herein and finds that this suit against Texaco is barred by the Oklahoma Workers' Compensation Act (85. O.S. §§ 11 and 12) and the compensation he received thereunder constitutes Plaintiff's sole remedy for his injuries; thus the Court finds that Texaco's motion to dismiss for lack of subject matter jurisdiction should be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT that Texaco's motion to dismiss for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure be, and the same is, hereby granted.

*SL JAMES O. ELLISON*  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

APPROVED:

*SL Ben A. Goff*  
\_\_\_\_\_

Ben A. Goff  
Attorney for Plaintiff

*/ Jack M. Short*  
\_\_\_\_\_

Jack M. Short  
Attorney for Defendant

## DEC 20 1955

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O R D E R

The Court has before it the motion of the Respondent Michael C. Turpen, Attorney General of the State of Oklahoma to dismiss pursuant to Rule 12B of the Federal Rules of Civil Procedure. In support of his motion, Mr. Turpen argues that the petition under 28 U.S.C. § 2254 fails to state a claim upon which relief can be granted by the Court.

Mr. McCarthy filed this action using the form approved for actions under 28 U.S.C. § 2254, petition for writ of habeas corpus by a person in state custody. However, Mr. McCarthy is not challenging the constitutionality of a state court judgment and sentence but is rather challenging the conditions of his confinement in the Tulsa County Jail. Such claims are more properly considered in an action under 42 U.S.C. § 1983. *Bradenburg vs. Beaman*, 632 F.2d 120 (10th Cir. 1980).

Upon a review of the record in this case including the pleadings and arguments of the parties and the special report submitted to the Court pursuant to its Order, this Court finds

that under either theory of recovery Respondent Turpen must be dismissed from this case.

In order to establish a cause of action under § 1983, a plaintiff must allege that a defendant has deprived him of a federally protected right, and that the person who has deprived him of that right acted under color of state law. Gomez vs. Toledo, 446 U.S. 635, 640, 100 S.Ct. 1920, 1923 (1980). The plaintiff must establish an "affirmative link between the complained of conduct and the named defendant." Rizzo vs. Goode, 423 U.S. 362, 96 S.Ct. 598 (1976). The Court can find no allegations of personal wrongdoing or any personal involvement of the attorney general in the Petition filed by Mr. McCarther. Under § 1983 the Attorney General would not be a proper party.

If the Court considered the Petition as a petition for a writ of habeas corpus under 28 U.S.C. § 2254, it must still determine that it fails to state a claim against Turpen. Habeas corpus relief can only be sought against the official who has the physical control over the person of the petitioner. Braden vs. Tenth Judicial Circuit Court of Kentucky, 410 U.S. 484, 93 S.Ct. 1123 (1973).


In his answer, Petitioner asserts that he does not seek compensatory damages but predicates his claim for relief on "the failure to provide due process rights towards felony convictions on which future confinement and punishments are pending." Petitioner directs the Court to Rules 2(a) and 2(b) of the federal rules governing § 2254 cases in the United States

District Courts. Rule 2(b) is applicable if the petitioner is not presently in custody pursuant to the state judgment against which he seeks relief. The rule is meant to provide a procedure to be used for a petition challenging a judgment under which the petitioner will be subject to custody in the future. In such an instance the Attorney General of the state in which the judgment was entered can be made a party. A review of the record convinces the Court that Rule 2(b) is not applicable here and that Attorney General Turpen is not a proper party under § 2254.

For the foregoing reasons, this Court finds that Michael C. Turpen, the Attorney General of the State of Oklahoma must be dismissed from this case.

IT IS THEREFORE ORDERED AND ADJUDGED that the motion to dismiss of Michael C. Turpen be and the same is hereby granted.

ORDERED this 19<sup>th</sup> day of December, 1983.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

*Entered*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**

DEC 20 1983

CHERRY C. WILLIAMS, individually,  
and on behalf of her minor son as  
next friend, RODERICK BROOKS;  
VERONICA SWAIN; EMANUEL HIGHTOWER;  
CHRISTINE BROOKS, individually and  
on behalf of her minor children as  
next friend, DAVID TURNER and  
SHAMIKO LOUIE; and BRENDA C. PARKER,  
on behalf of her minor daughter as  
next friend, TANARA OLIVER,

Plaintiffs,

v.

HERTZ CORPORATION, a foreign  
corporation,

Defendant,

v.

CHERRY C. WILLIAMS and  
CHRISTINE BROOKS,

Third Party Defendants.

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

NO. 82-C-567-BT

O R D E R

Before the Court for consideration is the motion to dismiss pursuant to Fed.R.Civ.P.12(b)(6) of "third party defendants," Cherry C. Williams and Christine Brooks.<sup>1</sup> Third party plaintiff, Brenda C. Parker, on behalf of her minor daughter, Tanara Oliver, as next friend, hereinafter referred to as "Parker", has filed her response thereto. For the reasons set

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<sup>1</sup> Actually, Williams and Brooks are cross-defendants. Parker on behalf of Oliver, filed a cross-complaint against Williams and Brooks. Because the parties have denominated Williams and Brooks as third party defendants, the Court will refer to them as such.



forth below, the Court finds the motion to dismiss should be sustained.

Williams and Brooks raise three bases for dismissal of the cross-complaint: 1) the allegations in the cross-complaint are inconsistent and mutually exclusive of the allegations in the complaint; 2) the allegation of failure or refusal to obtain insurance does not state a cause of action; and 3) the allegation of negligent entrustment fails to state a proper claim.

The cross-complaint contains two causes of action. The first apparently is directed toward both Williams and Brooks.<sup>2</sup> In the first cause of action, the following allegations are made:

1. "[T]he parties plaintiff had insurance coverage by the terms of the contract at the time of the accident and at all times pertinent herein; however, in the event that the Court and/or jury should determine that the third party defendants did not properly obtain insurance coverage, then, and in that event, the plaintiff OLIVER alleges and states that such third party defendants were negligent in failing to make clear to the defendant HERTZ CORPORATION of their desire and intent to purchase such insurance, ..."
2. "[T]hat the defendant and third party defendants were negligent in concert in failing to communicate the terms and conditions of the contract with respect to insurance, as well as the applicable laws of each of the States through which the automobile would be driven."
3. [B]oth Oklahoma and Arkansas State Law require insurance coverage at all times while operating a motor vehicle, and/or proof of financial responsibility. This fact is presumed known to all parties including

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<sup>2</sup> The only persons designated as third party defendants are Williams and Brooks, although Parker attempts to state additional causes of action against Hertz Corporation other than those stated in the original complaint.

the defendant and third party plaintiff herein, and if such insurance was provided, then, and in that event, HERTZ CORPORATION was negligent in permitting the car to be taken without insurance coverage, and the third party defendants were negligent in operating the car without such coverage."(Court's emphasis)

The plaintiffs in the original complaint, including Parker, in stating a cause of action upon an uninsured motorist insurance policy,<sup>3</sup> alleged the proximate cause of the automobile accident was "the negligence of the driver of the tractor trailer whose identity is unknown to the Plaintiffs." Plaintiffs also alleged, "defendant's agents accepted plaintiff's deposit and advised plaintiff, CHERRY C. WILLIAMS, that by renting said vehicle she would have full insurance coverage."

The third party defendants contend the allegations of the cross-complaint fail to state a cause of action as they are inconsistent and mutually exclusive with the allegations contained in the original complaint. The Court agrees that the allegations of the first cause of action of the cross-complaint do not state a cause of action but not because they are inconsistent and mutually exclusive with the allegations of the complaint.

Rule 8(e)(2) of the Federal Rules of Civil Procedure states:

"A party may set forth two or more statements of a claim or defense alternatively or hypothetically, either in one count or defense or in separate counts or defenses....A party may also state as many separate claims or defenses as he has

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<sup>3</sup> On October 18, 1983, this Court sustained defendant Hertz Corporation's motion for summary judgment with regard to plaintiff's cause of action on the uninsured motorist policy.

regardless of consistency and whether based on legal, equitable, or maritime grounds."

Although the alleged inconsistencies in Parker's allegations are contained in two separate pleadings -- the complaint and the cross-complaint -- the Court concludes intent of rule 8(e)(2) should be liberally construed. It is apparent Parker is attempting to in effect plead in the alternative and to set forth claims she has in addition to those in common with other plaintiffs and those she has against Williams and Brooks.

However, with regard to the first two allegations of the cross-complaint set forth above, that the third party defendants were negligent in failing to make clear to Hertz their desire and intent to purchase insurance and the third party defendants were negligent in failing to find out the terms and conditions of the rental contract with respect to insurance as well as the applicable laws of the States through which the car would be driven, the Court concludes plaintiff has failed to state a cause of action. Third party defendants had no duty to claimants -- statutory, contractual or common-law -- to make clear to Hertz they wanted to purchase insurance or to find out the terms of the rental contract with respect to insurance and the laws of the states through which the car was to be driven. Third party defendants could not therefore have acted negligently.

The third party defendants also contend Parker fails to state a cause of action against them for failure or refusal to obtain insurance or for negligence in operating the rented car without insurance.

The Oklahoma Motor Vehicle Financial Responsibility Act, 47 Okl.St. Ann. §7-101 et seq., contains prescribed penalties for non-compliance with its provision. For instance, the Act provides for a fine and/or imprisonment for failure of an owner of a motor vehicle to maintain security with respect to such vehicle. See 47 Okl.St. Ann. §7-602 and §7-606. Although under the Act there is a statutory duty to maintain insurance coverage on motor vehicles, the punishment for violating the Act is provided by it. There is no corresponding common law duty which would allow Parker to state a cause of action against third party defendants for negligently failing to obtain liability or uninsured motorist coverage and for driving the rented car without such coverage.<sup>4/</sup> The motion to dismiss in this regard should thus be sustained.

---

4/ Neither party has cited any cases which establish the existence or non-existence of a common law duty to obtain insurance coverage. The apparent lack of authority is illustrative there is no such common law duty.

Further, it does not appear plaintiff may here meet the test for when a private cause of action may be implied from a statute proscribing certain conduct. In Cort v. Ash, 422 U.S. 66, 78 (1975), the Supreme Court set forth the test, stating:

"In determining whether a private remedy is implicit in a statute not expressly providing one several factors are relevant. First, is the plaintiff 'one of the class for whose especial benefit the statute was enacted,' -- that is, does the statute create a federal right in favor of the plaintiff? Second, is there any indication of legislative intent, explicit or implicit, either to create such a remedy or to deny one? Third, is it consistent with the underlying purposes of the legislative scheme to imply such remedy for the plaintiff? And finally, is the cause of action one traditionally relegated to state law, in an area basically the concern of the States, so that it would be inappropriate to infer a cause of action based solely on federal law?" (Citations omitted)

Although Cort v. Ash involved implying a private cause of action from a federal statute, the first three factors set forth therein are relevant in determining whether a private cause of action may be implied from a state statute. See, Jalowiecki v. Leuc, 182 N.J. Super. 22, 440 A.2d 21 (1981). It does appear plaintiff is a member of a class for whose benefit the statute was enacted as the Financial Responsibility Act was intended to protect those injured by persons without insurance. However, there is no explicit or implicit legislative intent to create a private cause of action for persons violating the Act. In fact, the legislative intent appears to the contrary as the legislature obviously did not abrogate common law cause of action for negligence and the defenses associated therewith. And finally, while private causes of action might help deter violations of the Act, such protracted civil litigation would not be as effective in promoting the underlying purposes of the Act as would the provided-for penalties.

Finally, third party defendants claim the cross-complaint fails to state a cause of action against Williams for negligently entrusting the rented vehicle to Christine Brooks.

In the second cause of action of the cross-complaint are the following allegations:

1. "The plaintiff CHERRY C. WILLIAMS was aware of the driving record and habits of the third party defendant CHRISTINE BROOKS, but in spite of such knowledge and awareness, wrongfully and negligently turned over the operation and control of the rented motor vehicle to CHRISTINE BROOKS and allowed her to drive the car in a careless and unlawful fashion."
2. "[P]rior to the accident complained of in the plaintiff's original complaint, the third party defendant CHRISTINE BROOKS had been cited for speeding while operating the car which is the subject of this litigation. Further, a second citation was issued in close time and proximity thereto also for speeding."
3. "...WILLIAMS, in spite of having such notice and knowledge of the improper, unlawful and illegal driving activity by CHRISTINE BROOKS allowed her to continue to drive and operate the motor vehicle,...and further, that such operation, control and driving of the car was without supervision or caution by CHERRY C. WILLIAMS. Such acts constitute acts of negligence on behalf of CHERRY C. WILLIAMS as well as on behalf of CHRISTINE BROOKS."
4. "[A]t the time of the accident CHERRY C. WILLIAMS ... was asleep and not attending, supervising or paying attention to the driving conduct of ... CHRISTINE BROOKS...[T]he wanton, lackadaisical and irresponsible attitude of CHERRY C. WILLIAMS was the proximate cause of the accident...."

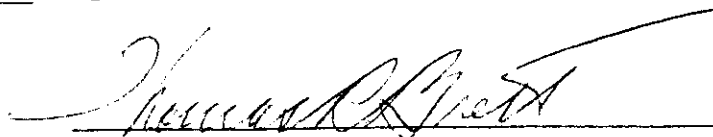
It appears negligent entrustment of the vehicle by Williams is the cause of action Parker is attempting to state. However, in order to state a cause of action for negligent entrustment Parker must allege Williams had knowledge that Brooks was a careless, reckless or incompetent driver and that the accident was caused by the negligence of Brooks. See Barger v. Mizel, 424 P.2d 41, 46 (Okla. 1967);

and Anthony v. Covington, 187 Okl. 27, 100 P.2d 461 (1940). It is questionable that Parker has alleged Williams had knowledge that Brooks was a careless, reckless or incompetent driver because at least one Oklahoma case has held that knowledge of an owner that the driver is a "fast driver" is not sufficient to show knowledge that the driver was an "incompetent, heedless, or reckless driver." See Anderson v. Eaton, 180 Okl. 243, 68 P.2d 858, 861 (1937). Moreover, nowhere in the cross-complaint does Parker allege that the accident was caused by the negligence of Brooks.

In order to prevail on a motion to dismiss, defendants must establish that plaintiff can prove no set of facts in support of her claim which would entitle her to relief. Haines v. Kerner, 404 U.S. 519 (1972). In deciding the motion, the Court must assume the allegations contained in the cross-complaint are true. Gardner v. Toilet Goods Ass'n, 387 U.S. 167 (1957). The Court concludes that the cross-complaint, viewed in the light most favorable to the pleader, fails to state a cause of action.

IT IS THEREFORE ORDERED third party defendants' motion to dismiss pursuant to Fed.R.Civ.P. 12(b)(6) is sustained.

ENTERED this 20<sup>th</sup> day of December, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

*Entered*

DEC 10 1983

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

WES ATOR and LINDA ATOR,  
husband and wife,  
  
                    Plaintiffs,  
  
v.  
  
ALLIS CHALMER CORPORATION,  
  
                    Defendant.

Case No. C-83-47 B

STIPULATION FOR DISMISSAL WITH PREJUDICE

Plaintiffs, Wes and Linda Ator, and Defendant, Allis Chalmer Corporation, hereby stipulate to the dismissal with prejudice of the above-captioned cause, pursuant to a settlement reached between the parties after a Settlement Conference with the Honorable James O. Ellison, with each party to pay its own costs.

Richard D. White, Jr.  
WILLIAMS WHILTE & ASSOCIATES  
315 East Rogers Blvd.  
P.O. Box 468  
Skiatook, Oklahoma 74070  
(918) 396-3535-288-7216  
Attorney for Plaintiffs

*Rebecca K Tallent*  
Rebecca K. Tallent  
KORNFELD FRANKLIN & PHILLIPS  
Suite 600, The Harvey Parkway  
301 N.W. 63rd Street  
P.O. Box 26400  
Oklahoma City, Oklahoma 73126  
(405) 840-2731  
Attorneys for Defendant

ORDER

For good cause shown, the above-captioned matter is hereby dismissed with prejudice.

S/ THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

**FILED**

**DEC 21 1983**

**Jack C. Silver, Clerk  
U. S. DISTRICT COURT**



Entered

FILED

DEC 19 1983

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

HAWS MANUFACTURING CO., INC., )  
Plaintiff, )  
vs. )  
LUTHER ELKIN, d/b/a HAWS )  
MOBILCRETE, INC., )  
Defendant. )

Case Number 83-C-596-B

ORDER

NOW ON THIS 16 day of Dec, 1983, upon consideration of the Application to Dismiss with Prejudice in the above styled and numbered cause, this Court finds that the case has been settled and issues have been rendered moot.

The Application to Dismiss with Prejudice is sustained.

Thomas R. Greiff  
JUDGE OF THE UNITED STATES  
DISTRICT COURT

Entered

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

DEC 16 1983

JOHN G. STEPHENS )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 AETNA LIFE INSURANCE COMPANY )  
 )  
 Defendant. )

No. 83-C-564-B

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER

NOW, before the Court for its consideration is the Stipulation of Dismissal filed by the parties herein, pursuant to Fed. R. Civ. P. 41. The Court having reviewed and considered the Stipulation of Dismissal together with the other Pleadings filed herein, hereby Orders as Follows:

1. The Petition filed by the Plaintiff, John G. Stephens, against the Defendant Aetna Life Insurance Company, is hereby dismissed with Prejudice.

IT IS SO ORDERED this 16<sup>th</sup> day of December, 1983.

S/ THOMAS R. BRETT  
Thomas R. Brett  
United States District Judge



*Entered*  
**FILED**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**DEC 16 1983**

**Jack C. Silver, Clerk  
U. S. DISTRICT COURT**

OUTFIELD MUSIC CO., ET AL,       )  
  )  
      Plaintiffs,                    )  
  )  
vs.                                    )  
  )  
SALEM MEDIA OF OKLAHOMA, INC.,   )  
  )  
      Defendant.                    )

No. 81-C-681-B

ORDER OF DISMISSAL

Upon stipulation and application and good cause appearing therefor, the above-captioned action is hereby ordered dismissed with prejudice in accordance with Fed.R.Civ.P. 41(a)(2).

SIGNED this 16<sup>th</sup> day of December, 1983.

**S/ THOMAS R. BRETT**

\_\_\_\_\_  
THOMAS R. BRETT, JUDGE  
UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 16 1983

TERRY W. RUSSELL and LOUISE J.  
RUSSELL, husband and wife,

Plaintiff,

-vs-

SQUARE D. COMPANY, a Michigan  
corporation,

Defendants.

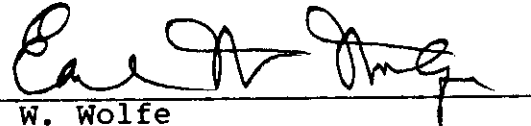
JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

No. 83 C 634 E

of  
STIPULATION FOR DISMISSAL

IT IS HEREBY STIPULATED that the above entitled action may be dismissed without prejudice each party to bear his own attorney's fees and costs.

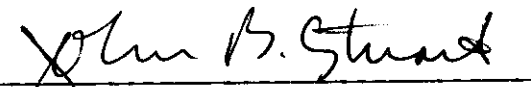
DATED this 1<sup>st</sup> day of December, 1983.



Earl W. Wolfe  
616 South Main, Suite 204  
Tulsa, Oklahoma 74119  
(918) 582-3168

Attorney for the Plaintiff

Knight, Wagner, Stuart, Wilkerson  
& Lieber  
233 West Eleventh Street  
Tulsa, Oklahoma 74119

By:   
Attorneys for the Defendants

Entered

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 16 1983

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
AARON R. HILL, )  
 )  
Defendant. )

CIVIL ACTION NO. 83-C-883-B

AGREED JUDGMENT

This matter comes on for consideration this 16<sup>th</sup> day of December, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, and the Defendant, Aaron R. Hill, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, Aaron R. Hill, was served with Summons and Complaint. The Defendant has not filed his Answer but in lieu thereof has agreed that he is indebted to the Plaintiff in the amount alleged in the Complaint and that Judgment may accordingly be entered against him in the amount of \$253.87, plus costs and interest at the current legal rate of 9.93 percent from the date of judgment until paid.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover Judgment against the Defendant, Aaron R. Hill, in the amount of \$253.87, plus costs and interest

at the current legal rate of 9.93 percent from the date of judgment until paid.


S/ THOMAS R. BRETT

---

UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

  
FRANK KEATING  
United States Attorney

  
AARON R. HILL

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

Entered  
FILED

UNITED STATES OF AMERICA  
and CAROLYN J. HARTMAN,  
Revenue Officer, Internal  
Revenue Service,

Petitioners,

vs.

KENNETH L. HORN,

Respondent.

DEC 16 1983

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

CIVIL ACTION NO. 83-C-834-B

ORDER DISCHARGING RESPONDENT AND DISMISSAL

ON THIS 16<sup>th</sup> day of December, 1983, Petitioners' Motion to Discharge Respondent and for Dismissal came for hearing. The Court finds that Respondent has now complied with the Internal Revenue Service Summons served upon him May 16, 1983, that further proceedings herein are unnecessary and that the Respondent, Kenneth L. Horn, should be discharged and this action dismissed.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED BY THE COURT that the Respondent, Kenneth L. Horn, be and he is hereby discharged from any further proceedings herein and this cause of action and Complaint are hereby dismissed.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE



- (                      - (      Entered

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 16 1983

DUCKWORTH, PRICE, HENDERSON AND )  
ASSOCIATES, LTD., an Alberta )  
corporation, )

Plaintiff, )

GIANT WELL SERVICE COMPANY, an )  
Oklahoma corporation, )

Defendant. )

JACK C. GILVER, CLERK  
U.S. DISTRICT COURT

No. 83-C-654-B


JUDGMENT

The Defendant, Giant Well Service Company, having failed to appear, and having failed to appear or otherwise defend in this action and Defendant's default have been entered,

Now, upon application of the Plaintiff and upon Affidavit that Defendant is indebted to Plaintiff in the sum of \$35,362.92 plus interest as provided by law, Court costs and a reasonable attorney's fee; that Defendant has been defaulted for failure to appear; and that Defendant is not an infant or otherwise incompetent, it is hereby

ORDERED, ADJUDGED AND DECREED that Plaintiff recover from Defendant the sum of \$35,362.92, together with interest thereon at the rate of 15 % per annum from July 28<sup>th</sup>, 1983 until the date of judgment herein and 9.3 % per annum from the date of judgment until paid, costs in the sum of \$80.00, and a reasonable attorneys' fee to be set by the Court upon application by the Plaintiff.

DATED the 16<sup>th</sup> day of Dec, 1983.

  
UNITED STATES COURT CLERK

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

DANIEL S. BUFORD,

Plaintiff

v.

UNITED STATES OF AMERICA,

Defendant

CIVIL NO. 82-C-677-C

STIPULATION OF DISMISSAL

The parties hereby stipulate the dismissal of this action,  
without prejudice, pursuant to Rule 41, Federal Rules of Civil  
Procedure.

*Michael E. Greene*

MICHAEL E. GREENE  
Trial Attorney, Tax Division  
Department of Justice  
Room 5B31, 1100 Commerce Street  
Dallas, Texas 75242  
214-767-0293

ATTORNEY FOR DEFENDANT

*E. G. Ball*

DEC 16 1983  
JACOB H. BAKER, CLERK  
U.S. DISTRICT COURT

**FILED**

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**DEC 15 1983**

TIMOTHY A. HENDRICKS,

Plaintiff,

vs.

THE FIRESTONE TIRE & RUBBER  
COMPANY and THE BUDD COMPANY,

Defendants.

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

No. 82-C-638-E

O R D E R

This action comes before the Court on stipulation of the plaintiff, Timothy A. Hendricks, and defendant, The Budd Company, to dismiss the plaintiff's action against The Budd Company and The Budd Company's action against The Firestone Tire & Rubber Company with prejudice to the bringing of another action for the same, each party to go hence with their costs.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the plaintiff's action against The Budd Company and The Budd Company's action against The Firestone Tire & Rubber Company are hereby dismissed with prejudice to the bringing of another action for the same, each party to go hence with their respective costs.

ORDERED this 14 day of Dec, 1983.

**S/ JAMES O. ELLISON**

JUDGE OF THE UNITED STATES  
DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

APPROVED AS TO FORM & CONTENT:

PRAY, WALKER, JACKMAN, WILLIAMSON  
& MARLAR

By



John F. McCormick  
2200 Fourth National Building  
Tulsa, OK 74119  
Attorneys for Plaintiff

JONES, GIVENS, GOTCHER, DOYLE &  
BOGAN, INC.

By



Alfred K. Morlan  
201 West 5th, Suite 400  
Tulsa, OK 74103  
Attorneys for Defendant  
The Budd Company

**FILED**

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

DEC 15 1983

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ELIZABETH J. POVICK,

Defendant.

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

CIVIL ACTION NO. 83-C-875-E

DEFAULT JUDGMENT

This matter comes on for consideration this 14 day  
of Dec., 1983, the Plaintiff appearing by Frank  
Keating, United States Attorney for the Northern District of  
Oklahoma, and the Defendant, Elizabeth J. Povick, appearing not.

The Court being fully advised and having examined the  
file herein finds that Defendant, Elizabeth J. Povick,  
acknowledged receipt of Summons and Complaint on November 7,  
1983. The time within which the Defendant could have answered or  
otherwise moved as to the Complaint has expired and has not been  
extended. The Defendant has not answered or otherwise moved, and  
default has been entered by the Clerk of this Court. Plaintiff  
is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the  
Plaintiff have and recover Judgment against Defendant,  
Elizabeth J. Povick, for the principal sum of \$464.00, plus costs  
and interest at the current legal rate of 9.93 percent from  
the date of judgment until paid.

S/ JAMES O. ELISON

UNITED STATES DISTRICT JUDGE

FOR THE L E D

Connie E. Walters,

Plaintiff,

-VS-

Talley Investment Company,

Defendant.

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

No. 82-C-1032-E

### ORDER OF DISMISSAL

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the above styled case be, and same is hereby, dismissed with prejudice.

United States District Judge

APPROVED:

Jay C. Baker, Attorney for Plaintiff

Wendell Clark, Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**

**DEC 15 1983**

THE ENERGY GROUP d/b/a )  
TIME DRILLING COMPANY RIG #4 )  
A TEXAS GENERAL PARTNERSHIP, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
ANDOVER OIL COMPANY, )  
A WYOMING CORPORATION, )  
 )  
Defendant. )

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

No. 82-C-1005-E

ORDER OF DISMISSAL

Now on this 14 day of December, 1983, this matter comes on for hearing on the Joint Application of the parties for dismissal with prejudice of the above-captioned matter. The Court, having fully reviewed the pleadings on file and being further fully advised in the premises finds that said Application should be and hereby is granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this action be dismissed with prejudice, each party to bear its own costs.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE



FILED

DEC 15 1983

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

MARANATHA MUSIC, ET AL,

Plaintiffs,

vs.

INSPIRATION MEDIA, INC.,

Defendant.

)  
)  
)  
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No. 81-C-44-E

ORDER OF DISMISSAL

Upon stipulation and application and good cause appearing therefor, the above-captioned action is hereby ordered dismissed with prejudice in accordance with Fed.R.Civ.P. 41(a)(2).

SIGNED this 14 day of Dec, 1983.

S/ JAMES O. ELLISON

JAMES O. ELLISON, JUDGE  
UNITED STATES DISTRICT COURT

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE 15 1983  
NORTHERN DISTRICT OF OKLAHOMA

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

INTERNATIONAL ASSOCIATION OF )  
MACHINISTS AND AEROSPACE )  
WORKERS (AFL-CIO) and )  
INTERNATIONAL ASSOCIATION OF )  
MACHINISTS AND AEROSPACE )  
WORKERS, LOCAL LODGE 790 )  
(AFL-CIO), )

Plaintiffs, )

vs. )

RAMSEY WINCH COMPANY, an )  
Oklahoma Corporation, )

Defendants. )

No. 83-C-415-C

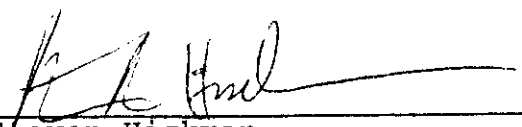
STIPULATION OF DISMISSAL WITH PREJUDICE

COME NOW the parties to this action, by and through  
their attorneys, and pursuant to Federal Rule of Civil  
Procedure 41(a)(1), stipulate that this action shall be  
dismissed with prejudice.

Respectfully submitted,

FRASIER, FRASIER & GULLEKSON

By

  
Steven Hickman  
717 South Houston, Suite 400  
P. O. Box 799  
Tulsa, Oklahoma 74101

ATTORNEYS FOR PLAINTIFFS

HALL, ESTILL, HARDWICK, GABLE,  
COLLINGSWORTH & NELSON

By 

J. Patrick Cremin  
Martin B. Langford  
4100 Bank of Oklahoma Tower  
One Williams Center  
Tulsa, Oklahoma 74172  
(918) 588-2700

ATTORNEYS FOR DEFENDANT

**FILED**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC 15 1983

SUNBELT ENERGY CORPORATION, )  
a corporation d/b/a SUNCATCHER )  
OF OKLAHOMA, INC., TULSA )  
DIVISION, )

Plaintiff, )

vs. )

SOLAR SYSTEMS, INC., a )  
corporation d/b/a FIRST )  
AMERICAN SOLAR, EUGENE B. )  
BEACHLY, MIKE QUINN, and )  
JIM LYNN, )

Defendants. )

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

No. 83-C-950-E

O R D E R

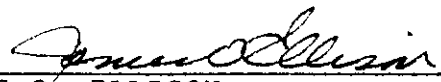
Sunbelt Energy Corporation, the above named Plaintiff, having moved the Court for an order striking Solar Systems, Inc., a corporation d/b/a First American Solar, from the Complaint and having moved the Court for an order joining Solar Services Corporation as an additional party Defendant herein, and it appearing to the Court that Solar Services Corporation is the proper person who may be properly joined in this action under Rule 20 of the Federal Rules of Civil Procedure, and it further appearing to the Court that Solar Services Corporation, through its attorney of record, Bill Gaddis has agreed to be joined herein as a party Defendant;

IT IS THEREFORE ORDERED that the cause of action against Defendant Solar Systems, Inc. d/b/a First American Solar be, and the same is hereby dismissed.

IT IS FURTHER ORDERED that Solar Services Corporation be joined as an additional party Defendant in this action, and that the caption of the action be amended appropriately.

IT IS FURTHER ORDERED that Plaintiff file and cause to be served on Solar Services Corporation an Amended Complaint within 16 days after entry of this order and that a copy of the Amended Complaint together with a copy of the Summons and a copy of this Order be served on Bill Gaddis, the attorney of record for Defendant, Solar Services Corporation within 10 days from entry of this Order.

DATED this 14<sup>th</sup> day of December, 1983.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

H. DALE COOK, JUDGE  
UNITED STATES DISTRICT COURT

FILED

DEC 1 0 1983

No. 80-C-61-C

H. DALE COOK, JUDGE  
UNITED STATES DISTRICT COURT





IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

LARRY CLAPP, RAY CLAPP, and  
BARBARA CLAPP,

Plaintiffs,

VS.

No. 82-C-601-E

JAMES W. PITTMAN, a/k/a  
BILL PITTMAN, et al.,

Defendants.

**JUDGMENT DISMISSING ACTION**  
**BY REASON OF SETTLEMENT**

The Court has been advised by counsel that this action has been settled, or is in the process of being settled. Therefore it is not necessary that the action remain upon the calendar of the Court.

IT IS ORDERED that the action is dismissed without prejudice. The Court retains complete jurisdiction to vacate this Order and to reopen the action upon cause shown within thirty (30) days that settlement has not been completed and further litigation is necessary.

IT IS FURTHER ORDERED that the Clerk forthwith serve copies of this judgment by United States mail upon the attorneys for the parties appearing in this action.

DATED this 13<sup>th</sup> day of December, 1983.

JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JOHN RUSSELL PENN,  
#102391,  
  
Plaintiff,

vs.

JON D. DOUTHITT and  
EARL GONCE,  
  
Defendants.

No. 82-C-138-E

O R D E R

FILED

DEC 13 1983


Jack C. Silver, Clerk  
U. S. DISTRICT COURT

NOW on this 13<sup>th</sup> day of December, 1983, comes on for  
hearing before the Court the above styled action and the Court,  
being fully advised in the premises finds:

That a telephone status conference was held on October 21,  
1983 during which Plaintiff stated he would dismiss this action  
subject to the acceptance for filing of his state court grievance  
by the Court Clerk of Ottawa County; that the Court has received  
copies of the pleadings accepted for filing in Ottawa County and  
therefore this case may be dismissed and removed from this  
Court's docket.

Further, this Court received a letter dated November 7, 1983  
from David Thompson, attorney for Earl Gonce, who did not appear  
at the telephone conference having received no notice of the  
same, which letter requests the agreed dismissal include his  
client.

IT IS THEREFORE ORDERED that the action be dismissed as to all parties without prejudice.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

Entered

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

SHELTER AMERICA CORPORATION, )  
Plaintiff, )  
vs. )  
SUVILLA F. McINTOSH, a/k/a )  
SUVILLA F. JACKSON, )  
Defendant. )

DEC 13 1983

Case No. 83-C-909-B  
CLERK OF COURT

JUDGMENT OF DEFAULT

This cause coming for hearing before the undersigned Judge upon Plaintiff's Motion for Default Judgment against Defendant, Suvilla F. McIntosh, a/k/a Suvilla F. Jackson, pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure, and it appearing to the Court that the Complaint in the above cause was filed on the 28th day of October, 1983, and that Summons and Complaint were duly served on Defendant on November 10, 1983, and that no answer or other defense has been filed by said Defendant, and that default was entered by the Clerk on the 5th day of December, 1983, and that no proceeding has been taken by said Defendant, Suvilla F. McIntosh a/k/a Suvilla F. Jackson, since default was entered by the Clerk.

The Court having examined the file, reviewed the Motion, Affidavit, and Brief filed by Plaintiff, and having considered the Affidavit of Plaintiff's counsel as to the attorney fees incurred by Plaintiff in this matter, and being fully advised finds, and

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. This Court has jurisdiction over the parties and the subject matter of this action pursuant to 28 U.S.C. §1332.

2. That default judgment is hereby entered against Defendant, Suvilla F. McIntosh, a/k/a Suvilla F. Jackson, and in favor of Plaintiff for possession of the following described personal property, to-wit: One (1) 1982 Woodcrest Mobile Home, Serial No. 2025 - AB.

3. In the event possession cannot be had within thirty (30) days of this date, the Court retains jurisdiction to reopen the case and consider alternative relief.

4. In the event possession is obtained within thirty (30) days of this date, this Court reserves, until after sale proceedings, the right of Plaintiff to be awarded a deficiency judgment with interest thereon as provided by the Contract and by 12A O.S. §9-504.

5. Plaintiff have further judgment against Defendant for a reasonable attorney fee in the amount of Five Hundred Five (\$505.00) Dollars.

6. The Court further directs that Plaintiff is entitled to collection expenses and costs of this action.

ORDERED this 12<sup>th</sup> day of December, 1983.

S/ THOMAS R. BRETT

---

THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

DEC 13 1953  
JACK H. SILVER, CLERK  
U.S. DISTRICT COURT

Defendant.

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)  
)  
) No. 83-C-767-C

DATED this 12<sup>th</sup> day of December, 1983.

*James M. Hinds*  
JAMES M. HINDS  
5314 South Yale Avenue  
Suite 601  
Tulsa, Oklahoma 74135  
(918) 744-1535

APPROVAL GIVEN  
BY PLAINTIFF:

*Linda C. Jefferson*  
LINDA C. JEFFERSON

Apprent Given  
Harvard S. Miller  
Agency for Defendant

RELEASE OF ALL CLAIMS

1.0 RELEASE: That the undersigned, for the sole consideration of THREE THOUSAND and no/100 DOLLARS (\$3,000.00), does hereby on this day release DOCTORS' MEDICAL CENTER, INC. and its successor corporation Founders of Doctors' Hospital, Inc. of and from any and all claims, actions, causes of action, demands, rights, damages, costs, expenses, attorney fees and compensation whatsoever, which the undersigned now has resulting or to result from the event here described: All claims described in lawsuit filed September 9, 1983 in the United States District Court at Tulsa, Oklahoma, No. 83-C-767-C.

2.0 COMPROMISE OF DISPUTED CLAIM: It is understood and agreed that this settlement is the compromise of a doubtful and disputed claim, and that the payment made is not to be construed as an admission of liability on the part of the party(s) released, and that said party(s) deny liability and intend merely to avoid litigation.

3.0 VOLUNTARY: The undersigned further declares and represents that no promise, inducement or agreement not herein expressed has been made to the undersigned, and this Release is being signed voluntarily, and that this Release contains the entire agreement between the parties hereto, and that the terms of this Release are contractual and not a mere recital.

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND FULLY UNDERSTANDS IT.

Signed, sealed and delivered this 12<sup>th</sup> day of December, 1983.

Linda C. Jefferson  
LINDA C. JEFFERSON

James M. Hinds  
WITNESS

Robert Ann Shore  
WITNESS

STATE OF OKLAHOMA )

) ss

COUNTY OF TULSA )

On the 12 day of December, 1983 before me personally appeared LINDA C. JEFFERSON to me known to be the person named herein and who executed the foregoing Release and she acknowledged to me that she voluntarily executed the same.

Robert Ann Shore  
NOTARY PUBLIC

My Commission Expires:

6-25-85

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

**DEC 13 1983**

MARK ALEXANDER,

Plaintiff,

vs.

AMERICAN INDIAN ENERGY, INC.,  
a Texas corporation,

Defendant and  
Third Party Plaintiff,

vs.

AMERICAN INDIAN OIL & GAS, INC.,  
a Texas corporation,

Third Party Defendant.

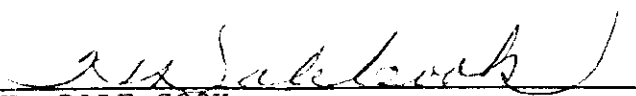
No. 83-C-182-C

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

JUDGMENT BY DEFAULT

It is Ordered, Adjudged and Decreed that the plaintiff, Mark Alexander, have judgment by default against defendant, American Indian Energy, Inc. and recover of the said defendant the sum of fifteen thousand dollars (\$15,000) with interest thereon at the rate of 9.93% percent from the date of this judgment and his costs of action.

It is so Ordered this 13<sup>th</sup> day of December, 1983.

  
H. DALE COOK

Chief Judge, U. S. District Court



FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC 15 1983


W. B. Silver, Clerk  
U.S. DISTRICT COURT

TIMOTHY A. HENDRICKS, )  
 )  
Plaintiff, )  
 )  
vs. ) No. 82-C-638-E  
 )  
THE FIRESTONE TIRE & RUBBER )  
COMPANY, a corporation; and )  
THE BUDD COMPANY, a corpora- )  
tion, )  
 )  
Defendants. )

O R D E R

The above matter coming on to be heard this 13<sup>th</sup> day of December, 1983 upon the written stipulation of the Plaintiff and the Defendant, The Firestone Tire & Rubber Company, a corporation, for a dismissal of said action with prejudice as to the Defendant, the Firestone Tire & Rubber Company, a corporation, and the Court, having examined said stipulation, finds that the parties have entered into a compromise settlement covering all claims involved in the action, and have requested the Court to dismiss said action with prejudice to further action, and the Court, being fully advised in the premises, finds that said action should be dismissed pursuant to said stipulation.

IT IS THEREFORE ORDERED AND ADJUDGED by the Court that the Plaintiff's cause of action filed herein against the Defendant, the Firestone Tire & Rubber Company, a corporation, be and the same is hereby dismissed with prejudice to any further action.

  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 13 1983

JOCK C. SILVER, CLERK  
U.S. DISTRICT COURT

RALPH J. GATLIN,

Plaintiff,

vs.

CONNECTICUT GENERAL LIFE  
INSURANCE COMPANY, a  
corporation,

Defendant.

No. 82-C-577-C

ORDER FOR DISMISSAL WITHOUT PREJUDICE

On the 21st day of November, 1983, this Court issued an Order requiring the Plaintiff to submit within fifteen (15) days from the date of the referenced Order information pertaining to Plaintiff's reasons for failing to diligently prosecute and for failing to cooperate in discovery, as well as, a detailed scheduling calendar to assist in discovery. The referenced Order was timely mailed to Plaintiff at the Plaintiff's last known address. In excess of fifteen (15) days have elapsed since the issuance of the referenced Order and the Plaintiff has neither contacted this Court nor made any attempts to comply with the referenced Order. Upon careful consideration of the history of this action and pursuant to Plaintiff's failure to comply with this Court's Order of November 21, 1983, this Court does hereby:

ORDER, ADJUDGE AND DECREE that the above referenced action is hereby dismissed without prejudice to the rights of the parties to institute further proceedings in the future and that each party shall bear its own costs of this action.

DATED this 13 day of December, 1983.

(Signed) H. Dale Cook

---

H. Dale Cook  
United States District Judge

IN THE UNITED STATES DISTRICT COURT  
THE NORTHERN DISTRICT OF OKLAHOMA

Entered

FILED

DEC 13 1983

JACK C. GUNTER, CLERK  
U.S. DISTRICT COURT

MIDWAY MFG. & SUPPLY CO., )  
 )  
Plaintiff, )

vs. )

No. 82-C-436-B

FRANKLIN SUPPLY COMPANY, )  
 )  
OILFIELD EQUIPMENT RENTAL )  
1980 A LTD., a partnership )  
and PLH WORKOVER CO., a )  
partnership, )  
 )  
Defendant- )  
Intervenors, )

vs. )

TEXAS INTERNATIONAL COMPANY, )  
 )  
Defendant On )  
Counterclaim )

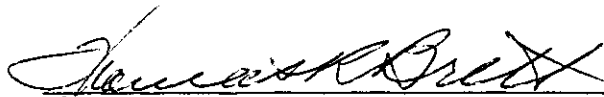
ORDER OF DISMISSAL WITH PREJUDICE

NOW, on this 13<sup>th</sup> day of December, 1983, pursuant to the individual Applications and the Joint Application of the above named parties requesting a dismissal with prejudice of all claims, counterclaims and crossclaims of each party to the above entitled action, this Court having reviewed the application and being fully advised in the premises, finds that said Application should be granted.

IT IS THEREFORE ORDERED that: the Application of the parties for a dismissal of the above entitled action with prejudice to the refiling of any claims, counterclaims or crossclaims of each party should be granted based on the fact that a settlement has been reached in this action.

IT IS FURTHER ORDERED that each party should bear its own costs, expenses and attorney's fees.

ENTERED this 17 day of December, 1983.

  
\_\_\_\_\_  
Thomas R. Brett  
United States District Judge

228

IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF OKLAHOMA

FILED  
DEC 13 1983  
JAMES C. GILLES, CLERK  
U.S. DISTRICT COURT

REBECCA KIM CARSON,

Plaintiff,

vs.

DOCTORS' MEDICAL CENTER, INC.,  
d/b/a Doctors' Hospital,

Defendant.

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No. 82-C-1113-C

STIPULATION OF  
DISMISSAL

COMES NOW the Plaintiff by and through her attorney-of-record and dismisses  
this action against the Defendant with prejudice.

DATED this 13<sup>th</sup> day of December, 1983.

Marsha C. Woodruff  
MARSHA C. WOODRUFF  
2030 Mally Wagon Road  
Fayetteville, Arkansas 72701

Attorney for Plaintiff.

APPROVAL GIVEN  
BY PLAINTIFF:

Rebecca Kim Carson  
REBECCA KIM CARSON

Approval Given  
Howard S. Miller  
Attorney for Defendant

APPROVAL GIVEN:  
P. Hae Woodruff  
Attorney for Plaintiff

RELEASE OF ALL CLAIMS

1.0 RELEASE: That the undersigned, for the sole consideration of NINE THOUSAND and no/100 DOLLARS (\$9,000.00), does hereby on this day release DOCTORS' MEDICAL CENTER, INC. and its successor corporation Founders of Doctors' Hospital, Inc. of and from any and all claims, actions, causes of action, demands, rights, damages, costs, expenses, attorney fees and compensation whatsoever, which the undersigned now has resulting or to result from the event here described: All claims described in lawsuit filed November 22, 1982 in the United States District Court at Tulsa, Oklahoma, No. 82-C-1113-C.

2.0 COMPROMISE OF DISPUTED CLAIM: It is understood and agreed that this settlement is the compromise of a doubtful and disputed claim, and that the payment made is not to be construed as an admission of liability on the part of the party(s) released, and that said party(s) deny liability and intend merely to avoid litigation.

3.0 VOLUNTARY: The undersigned further declares and represents that no promise, inducement or agreement not herein expressed has been made to the undersigned, and this Release is being signed voluntarily, and that this Release contains the entire agreement between the parties hereto, and that the terms of this Release are contractual and not a mere recital.

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND FULLY UNDER-  
STANDS IT.

Signed, sealed and delivered this 12<sup>th</sup> day of December, 1983.

REBECCA KIM CARSON

Howard S. Miller  
WITNESS

Patricia L. Williams  
WITNESS

STATE OF OKLAHOMA )  
 ) ss.  
COUNTY OF TULSA )

On the 12<sup>th</sup> day of December, 1983 before me personally appeared REBECCA KIM CARSON to me known to be the person named herein and who executed the foregoing Release and she acknowledged to me that she voluntarily executed the same.

Mary Ann Brown  
NOTARY PUBLIC

My Commission Expires:

12-9-84

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

DEC 12 1983

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

LARRY CLAPP, RAY CLAPP,  
and BARBARA CLAPP,

Plaintiffs,

v.

JAMES W. PITTMAN, et al,


Defendants.


No. 82-C-601-E


STIPULATION OF DISMISSAL

It is hereby stipulated in accordance with Rule 41(a),  
Federal Rules of Civil Procedure, that the plaintiffs may  
voluntarily dismiss their causes of action against all of the  
above named defendants without prejudice.

Come now the plaintiffs and hereby dismiss without  
prejudice their causes of action against all of the above named  
defendants.

  
J. Gregory Swanson  
Attorney for defendants James W.  
Pittman, Virginia Pittman, Edward  
Pittman, and Gloria Pittman, d/b/a  
Pittman Feed Company

  
Bill V. Wilkinson  
Attorney for plaintiffs

  
John B. Hayes  
Attorney for defendant Commercial  
Union Insurance Company



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DYCO PETROLEUM CORPORATION,

Plaintiff,

vs.

Case No. 83-C-858-C

FAWNMARK MINERALS, LTD.; KLIEWER  
OIL & GAS COMPANY; BRUCE B.  
SCOTT; and PATHFINDER ENERGY,  
INC.,

Hart #1-6 Defendants,

CHAMPLIN PETROLEUM COMPANY; BILL  
J. JENNINGS; PETRO-LEASE  
RESEARCH, INC.; JAMES A. PAYNE;  
VIVIAN S. PAYNE; DEYO PADDYAKER;  
DONNA LEE PADDYAKER; WILLIAM P.  
BIRCHALL; HENRY OIL & GAS, INC.;  
BILL J. SLOAN; GARVIN V. SLOAN;  
JOHN R. SPEARS; ANDY HELMS; and  
GARY YOUNG,

Staley-Howerton #1-8 Defendants,

D-I ENERGY, INC.; CLARK ELLISON;

Stevens #1-7 Defendants,

ROBERT G. ANDERSON; ELIZABETH  
G. ANDERSON; COMMONWEALTH  
ROYALTIES, INC.; JOSEPH F.  
MUELLER, Agent for Joseph Fred  
Mueller, Jr., Catherine  
Elizabeth Mueller, Virginia  
Marie Mueller and Ann Worden  
Mueller; BILL HODGES TRUCK  
COMPANY, INC.; KAISER-FRANCIS  
OIL COMPANY; and FRONTIER  
ENERGY COMPANY,

Yowell #1-26 Defendants,

L.O. WARD,

Baker-Flenner #1-20 Defendant,

**FILED**

**DEC 12 1983**

**Jack C. Silver, Clerk  
U. S. DISTRICT COURT**

Merrick #1-22 Defendant.

BUFFALO ROYALTY CORPORATION WITHOUT PREJUDICE

ADJUDGES, AND DECREES THAT:

- without prejudice from the above captioned cause; and,

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

Submitted by:

Lance Stockwell  
Paula E. Pyron  
Charles H. Crain  
Of BOESCHE, McDERMOTT & ESKRIDGE  
320 South Boston, Suite 1300  
Tulsa, Oklahoma 74103  
(918) 583-1777

ATTORNEYS FOR PLAINTIFF  
DYCO PETROLEUM CORPORATION

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

MERLAND G. MORGAN and  
HELEN MORGAN,  
Husband and Wife,

Plaintiffs,

-vs-

H. K. PORTER COMPANY, INC.,  
et. al.,

Defendants.

No. 82-C-781-C

**FILED**

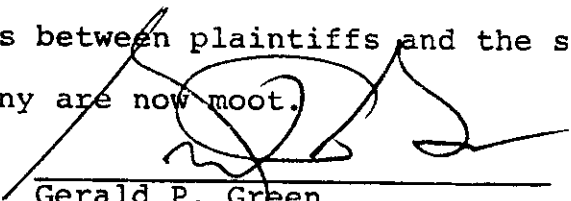
DEC 8 1983

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

STIPULATION FOR DISMISSAL

Mark Iola, counsel for the plaintiffs, and Gerald P. Green, counsel for defendant, H. K. Porter Company, do hereby show this Honorable Court that the issues between plaintiffs and the defendant, H. K. Porter Company, have been resolved pursuant to a compromise settlement.

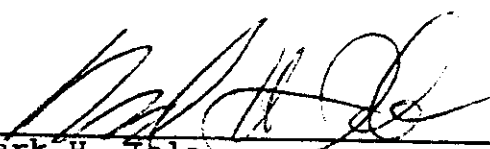
WHEREFORE, these parties pray that an Order of Dismissal with Prejudice be entered herein as to the defendant, H. K. Porter Company, as the issues between plaintiffs and the said defendant H. K. Porter Company are now moot.

  
\_\_\_\_\_  
Gerald P. Green  
Post Office Box 26350  
Oklahoma City, Oklahoma 73126  
405/235-1611

Attorney for Defendant,  
H. K. Porter Company, Inc.

Of Counsel:

PIERCE COUCH HENDRICKSON  
JOHNSTON & BAYSINGER

  
Mark H. Iola  
P. O. Box 2099  
Tulsa, Oklahoma 74101

Attorney for Plaintiffs

**FILED**

Of Counsel:

MARK IOLA  
ATTORNEY AT LAW

DEC 12 1983

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER OF DISMISSAL

Now on this 9 day of Dec, 1983, the Court being advised that a compromise settlement has been reached between the plaintiffs and the defendant, H. K. Porter Company, and those parties having stipulated to a Dismissal with Prejudice, the Court orders that the captioned case be dismissed with prejudice to the refiling of the same as to the defendant, H. K. Porter Company, Inc.

NOTE: THIS ORDER IS TO BE MAILED  
BY MOVANT TO ALL COUNSEL AND  
PRO SE LITIGANTS IMMEDIATELY  
UPON RECEIPT.

(Signed) H. Dale Cook  
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

This is to certify that on this \_\_\_\_\_ day of November, 1983 a true and correct copy of the above and foregoing instrument was served upon the all counsel herein by mailing same, with postage thereon fully prepaid, to the following counsel of record:

Mr. Mark H. Iola  
P. O. Box 2099  
Tulsa, OK 74101

Mr. Dale McDaniel  
2865 E. Skelly Dr. #233  
Tulsa, OK 74105

Mr. Donald Church  
501 Philtower Bldg.  
Tulsa, OK 74103

Mr. Scott Rhodes  
1010 Midland Center  
Oklahoma City, OK 73102

Mr. Jack M. Thomas  
300 Oil Capital Bldg.  
Tulsa, OK 74103

Mr. R. Casey Cooper  
320 S. Boxton, #1300  
Tulsa, OK 74103

Mr. Robert S. Baker  
2140 Liberty Tower  
Oklahoma City, OK 73102

Mr. George G. Short  
1800 Liberty Tower  
Oklahoma City, OK 73102

Mr. Robert D. Baron  
2400 First Natl. Bldg.  
Oklahoma City, OK 73102

Mr. Jeff R. Beeler  
2301 First Natl. Center  
Oklahoma City, OK 73102

Mr. Jack M. Thomas  
300 Oil Capital Bldg.  
Tulsa, OK 74103

Mr. Randall A. Breshears  
1719 1st Natl. Center W.  
Oklahoma City, OK 73102

Mr. Murray E. Abowitz  
P. O. Box 1937  
Oklahoma City, OK 73101

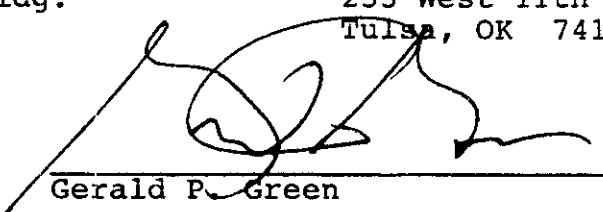
Mr. John R. Richards  
9 East 4th St. #400  
Tulsa, OK 74103

Mr. Jack R. Durland  
1800 Mid-America Tower  
Oklahoma City, OK 73102

Mr. John R. Tucker  
2900 Fourth Natl. Bldg.  
Tulsa, OK 74119

Mr. William S. Hall  
816 Enterprise Bldg.  
Tulsa, OK 74103

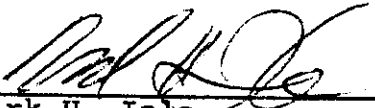
Mr. Richard D. Wagner  
233 West 11th St.  
Tulsa, OK 74119



---

Gerald P. Green

PIERCE COUCH HENDRICKSON  
JOHNSTON & BAYSINGER

  
Mark H. Iola  
P. O. Box 2099  
Tulsa, Oklahoma 74101

Attorney for Plaintiffs

**FILED**

Of Counsel:

MARK IOLA  
ATTORNEY AT LAW

DEC 12 1983

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER OF DISMISSAL

Now on this 9 day of Dec, 1983, the Court  
being advised that a compromise settlement has been reached  
between the plaintiffs and the defendant, H. K. Porter Company,  
and those parties having stipulated to a Dismissal with  
Prejudice, the Court orders that the captioned case be dismissed  
with prejudice to the refiling of the same as to the defendant,  
H. K. Porter Company, Inc.

NOTE: THIS ORDER IS TO BE MAILED  
BY THE CLERK OF COURT AND  
FILED IN THE CASE IMMEDIATELY  
UPON RECEIPT.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

This is to certify that on this \_\_\_\_\_ day of November, 1983  
a true and correct copy of the above and foregoing instrument  
was served upon the all counsel herein by mailing same, with  
postage thereon fully prepaid, to the following counsel of  
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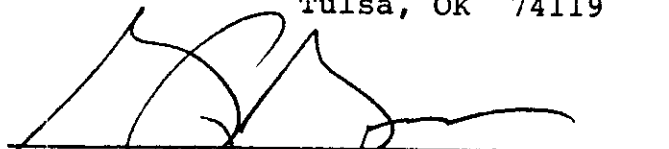
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Mr. William S. Hall  
816 Enterprise Bldg.  
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Mr. Richard D. Wagner  
233 West 11th St.  
Tulsa, OK 74119



Gerald P. Green



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC -9 1983

JOHN ANDREW BRAUN,

Plaintiff,

vs.

TERRY L. MELTZER,

Defendant.

No. 83-C-610-E

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

O R D E R

The Court has before it the motion of the Defendant Terry L. Meltzer to dismiss the Plaintiff's complaint herein for lack of jurisdiction.

Plaintiff alleges in his complaint that the Defendant while acting in the capacity of an officer of the Court deceived the Plaintiff into thinking that he was performing legal services on the Plaintiff's behalf in order to extort fees from the Plaintiff in violation of the Code of Ethics and contrary to his obligation as an officer of the Court. Plaintiff's contention is that such conduct is "under color of state law" and that this Court has jurisdiction under Title 28 U.S.C. § 1343(3). Section 1343(3) gives the Federal District Court original jurisdiction of any civil action commenced by any person to "redress the deprivation under color of any state law ... of any right, privilege or immunity secured by the Constitution of the United States ...". The fact that an attorney is licensed by the state or that he is an officer of the Court however does not make him a person acting under color of state law within the meaning of § 1343. Dyer vs.

Rosenberg, 434 F.2d 648 (9th Cir. 1970); Sarelas vs. Porikos, 320 F.2d 827 (7th Cir. 1963), cert. denied 84 S.Ct. 519. The Plaintiff therefore has not met the requirements for jurisdiction under § 1343.

Neither has the Plaintiff met the requirements for jurisdiction under Title 28 U.S.C. § 1332, diversity jurisdiction, in that both parties to this action are citizens of the State of Oklahoma. Jurisdiction therefore would apparently be with the State Courts of Oklahoma.

In view of the above it is this Court's opinion that it lacks jurisdiction over the subject matter of this case and that therefore the case must be dismissed.

IT IS THEREFORE ORDERED AND ADJUDGED that the motion of the Defendant to dismiss for lack of subject matter jurisdiction be, and the same is hereby granted.

IT IS FURTHER ORDERED that the above styled and numbered cause be dismissed without prejudice to its refiling in the proper forum.

ORDERED this 9<sup>th</sup> day of December, 1983.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC -9 1983

JACK C. MILLER, CLERK  
U.S. DISTRICT COURT

PHILLIPS PETROLEUM COMPANY )  
and PHILLIPS PIPE LINE )  
COMPANY, )

Plaintiffs, )

vs. )

Case No. 83-C-919-C

FUCORP, INC., a Texas )  
corporation, )

Defendant. )

NOTICE OF DISMISSAL

COME NOW Plaintiffs, pursuant to Rule 41(a)(1)(i) of the Federal Rules of Civil Procedure, and give notice that the above-captioned action is hereby dismissed. By reason of a Settlement Agreement and Compromise between the parties to this action dated December 9, 1983, and a Release hereinafter described, this dismissal shall be with prejudice as to, and only as to, Fucorp, Inc. and each and every signatory to that certain Release dated December 9, 1983, concerning the attempted sale by Plaintiffs to Fucorp, Inc. of a certain "wildcat" pipeline system comprised of the 6-inch natural gas pipeline from Lyons, Kansas to Thrall, Kansas and the 8-inch natural gas pipeline from Thrall, Kansas to Kansas City, Kansas. However, Plaintiffs intend to, and do hereby, reserve any and all claims, causes of action, rights and defenses known or


unknown, whether presently accrued or accruing at some future time, of any kind whatsoever, specifically including but not limited to, any and all claims concerning the expiration and validity of the contracts described in the Complaint or related contracts or claimed contracts against any person, including but not limited to, the privies, successors in interest and assigns of either Fucorp, Inc., or any of the aforementioned signatories to the Release, as to which other parties this dismissal is without prejudice, and such claims, causes of action, rights and defenses may be asserted in the future, against any party whatsoever not signatory to the Settlement Agreement and Compromise or the Release. It is the intention of the parties that this dismissal is not, and is not to be construed as, a determination on the merits of any claim contained in the Complaint and Plaintiffs reserve the right to assert all claims stated in their Complaint in this cause, specifically the claims that the contracts described therein and any related contracts or claimed contracts expired and are no longer in force and effect as alleged, against any and all parties including Fucorp, Inc., or any signatory to the Release, if they or any of them are named parties or are necessary parties in any litigation involving the validity of such contracts.

Dated this 9<sup>th</sup> day of December, 1983.

Respectfully submitted,

HALL, ESTILL, HARDWICK, GABLE,  
COLLINGSWORTH & NELSON, INC.

By

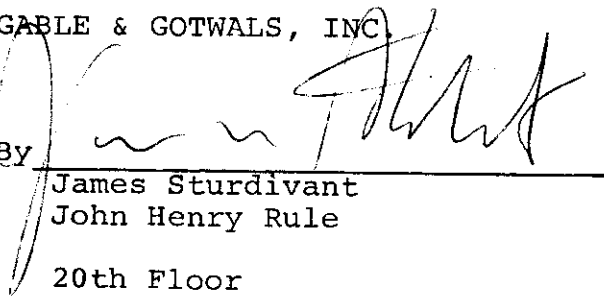
  
Fred S. Nelson  
Claire Eagan Barrett

4100 Bank of Oklahoma Tower  
One Williams Center  
Tulsa, Oklahoma 74172

ATTORNEYS FOR PLAINTIFFS

GABLE & GOTWALS, INC.

By

  
James Sturdivant  
John Henry Rule

20th Floor  
Fourth National Bank Building  
Tulsa, Oklahoma 74119

ATTORNEYS FOR DEFENDANT

FILED

UNITED STATES DISTRICT COURT FOR THE DEC -9 1983  
NORTHERN DISTRICT OF OKLAHOMA

WACK C. SILVER, CLERK  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
LARRY G. GUINN, )  
 )  
Defendant. ) CIVIL ACTION NO. 83-C-784-C

AGREED JUDGMENT

This matter comes on for consideration this 8 day  
of Dec, 1983, the Plaintiff appearing by Frank Keating,  
United States Attorney for the Northern District of Oklahoma,  
through Nancy A. Nesbitt, Assistant United States Attorney, and  
the Defendant, Larry G. Guinn, appearing pro se.

The Court, being fully advised and having examined the  
file herein, finds that the Defendant, Larry G. Guinn, was served  
with Alias Summons and Complaint on November 25, 1983. The  
Defendant has not filed his Answer but in lieu thereof has agreed  
that he is indebted to the Plaintiff in the amount alleged in the  
Complaint and that Judgment may accordingly be entered against  
him in the amount of \$361.53, plus costs and interest at the  
current legal rate of 9.93 percent from the date of judgment  
until paid.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that  
the Plaintiff have and recover Judgment against the Defendant,

Larry G. Guinn, in the amount of \$361.53, plus costs and interest at the current legal rate of 9.93 percent from the date of judgment until paid.

(Signed) H. Dale Cook

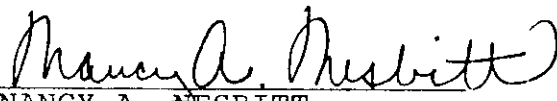
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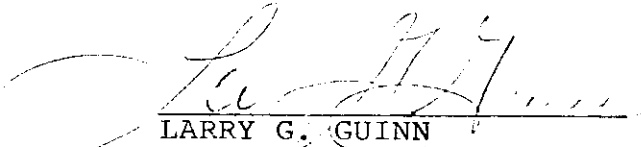
UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney

  
NANCY A. NESBITT  
Assistant U.S. Attorney

  
LARRY G. GUINN

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC -9 1983

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL KELLER,

Defendant.

CIVIL ACTION NO. 83-C-690-C

O R D E R

Now on this 8 day of December, 1983, it appears that the Defendant in the captioned case has not been located within the Northern District of Oklahoma, and therefore attempts to serve him have been unsuccessful.

IT IS THEREFORE ORDERED that the Complaint against Defendant, Michael Keller, be and is dismissed without prejudice.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE



FILED

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

CURTIS L. LAWSON,  
Plaintiff,

vs.

STATE OF OKLAHOMA, ex rel.  
OKLAHOMA BAR ASSOCIATION and  
OKLAHOMA SUPREME COURT,  
Defendants.

No. 83-C-498-E ✓

ORDER OF DISMISSAL

On November 15, 1983, there came on for hearing the Motion to Dismiss and Alternative Motion for Summary Judgment of the defendant Oklahoma Bar Association and defendant Supreme Court of Oklahoma's Motion to Dismiss and Motion for Summary Judgment. The plaintiff Curtis L. Lawson appeared pro se; the defendant Oklahoma Supreme Court appeared by and through its counsel of record John E. Douglas, Assistant Attorney General; and the Oklahoma Bar Association appeared by and through its counsel of record Sidney G. Dunagan and K. Lynn Anderson, General Counsel of the Oklahoma Bar Association.

The Court upon hearing the arguments of counsel and having fully reviewed the record and the briefs filed herein FINDS and ORDERS:

That the Motions to Dismiss of the Oklahoma Bar Association and the Oklahoma Supreme Court should be and are

32

hereby sustained.

DATED this 8<sup>th</sup> day of December, 1983.

James Deen  
JUDGE, United States District Court  
Northern District of Oklahoma

APPROVED AS TO FORM:

Sam M. Sturdivant  
for Sidney G. Dunagan,  
Attorney for Oklahoma Bar Ass'n.

John E. Douglas  
John E. Douglas  
Attorney for Oklahoma Supreme Court

Curtis L. Lawson  
Curtis L. Lawson  
Plaintiff, Pro Se

**FILED**

DEC - 7 1983

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*James O. Ellison*

DEC -7 1983

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

CIVIL ACTION NO. 83-C-870-B

S/ THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

Entered

**FILED**

DEC -7 1983

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

LENNOX INDUSTRIES, INC., an  
Iowa corporation,

Plaintiff,

vs.

CLINTON D. BRAME and MARLOW--  
JOHNSON, LTD.,

Defendants.

No. 83-C-139-B

ORDER OF DISMISSAL

The parties to this action having filed herein their Stipulation for Dismissal, the Court hereby dismisses the above-entitled action, without prejudice as to defendant Marlow-Johnson, Ltd., but with prejudice as to defendant Clinton D. Brame, each party to bear its or his own costs.

DATED this 7 day of <sup>*Dec.*</sup> ~~November~~, 1983.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

DEC - 7 1983

MASTER KRAFT TOOLING CORPORATION,  
an Oklahoma corporation,

Plaintiff,

vs.

CHINA AMERICAN TRADING COMPANY,  
a Texas corporation,

Defendant.

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

No. 83-C-478-C

ORDER FOR DISMISSAL WITHOUT PREJUDICE

NOW, on this 6 day of Dec, 1983, this  
Court having reviewed the Application of the Plaintiff, Master  
Kraft Tooling Corporation, and duly noting that the Defendant,  
China American Trading Company, has no objection to Dismissal  
Without Prejudice in the above styled case, hereby orders that  
this case be dismissed without prejudice.

(Signed) H. Dale Cook

Judge of the District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

Entered  
FILED

DEC -6 1983

MIDWEST FLANGE CORPORATION,  
an Oklahoma corporation,

Plaintiff,

v.

FOA FINCO, INC., FRED OLSEN,  
and OLSEN INDUSTRIES,

Defendants.

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

NO. 83-82-C-527-BT

ORDER SUSTAINING DEFENDANTS'  
MOTION TO DISMISS

Before the Court for consideration is the motion to dismiss of defendants pursuant to Fed.R.Civ.P. 12(b)(2). Plaintiff has filed its response thereto; defendants have replied. For the reasons set forth below, the Court finds defendants' motion to dismiss should be sustained.

This matter involves a factual scenario as follows:<sup>1</sup> defendants Fred Olsen and FOA Finco (hereinafter referred to as "Olsen/Finco") are co-owners of a Rockwell Sabreliner aircraft. Finco is a Delaware corporation whose principal place of business is New York; Olsen is a Missouri resident and Chairman of the Board of Olsen Industries, Inc., a Delaware corporation whose principal place of business is in Shawnee Mission, Kansas. Apparently, Olsen/Finco decided to trade the Sabreliner in on a

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<sup>1</sup> The facts set forth herein are essentially adopted from the affidavits of Karl Brunhuber, President of FOA Finco, Inc., and Fred Olsen, Chairman of the Board of Olsen Industries. Plaintiff has filed no affidavit setting forth contradictory facts.

new aircraft. Olsen/Finco entered into negotiations to that end with an aircraft brokerage company named Vance Aircraft Brokers, Inc., a New York corporation ("Vance"). Vance then began to search for potential buyers of the Sabreliner. Vance agreed, apparently without Olsen/Finco's knowledge, to sell the Sabreliner to Ultra Enterprises, Inc., an Oklahoma corporation, who agreed to assign the contract of sale to Dennison Sales, Inc., a Missouri corporation, who in turn agreed to sell the plane to plaintiff, an Oklahoma corporation. In the meantime, problems arose with the purchase of the new aircraft by defendants from Vance and the trade-in of the Sabreliner was postponed. In order to preserve the deals it had made to sell the Sabreliner, Vance informed Olsen/Finco of its deal with Ultra and asked Olsen/Finco to consent to a lease of the Sabreliner to plaintiff while problems concerning the trade-in and new purchase were solved. Olsen/Finco agreed.

Olsen/Finco entered into a lease agreement of the Sabreliner with plaintiff and Vance. The lease was executed by Olsen/Finco and Vance in New York. The lease was then "removed" by Vance from New York for the appropriate signatures of plaintiff and Ultra Enterprises in Oklahoma.<sup>2</sup>

Under the terms of the lease, Olsen/Finco was to deliver the plane to plaintiff at St. Louis, Missouri. Plaintiff was to redeliver the plane at the end of the lease to Olsen/Finco at

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<sup>2</sup> It is not clear from the affidavits and pleadings whether an agent of Vance took the lease to Oklahoma for execution. It does appear Vance assumed responsibility for obtaining the appropriate signatures from the other parties to the lease.



Kansas City. Plaintiff was allowed unlimited use of the plane for the duration of the approximately two-month lease except for two occasions when Olsen/Finco needed to use the plane. On those two occasions, plaintiff was to deliver the plane to defendants at a designated airport within the United States east of Kansas City. Further, the terms of the lease provided for a deposit by plaintiff of \$70,000.00 into an escrow account in Oklahoma City, Oklahoma.

Plaintiff claims that on January 22, 1983, the aircraft while being flown by plaintiff lost one of its gyro systems. Immediate steps were taken to replace the gyro system and on January 24, 1983, while awaiting replacement parts, plaintiff was notified that defendants needed use of the plane no later than 10:00 a.m. on January 25, 1983.<sup>3</sup> Plaintiff guaranteed delivery of the plane sometime on January 25, 1983 but could not guarantee delivery by 10:00 a.m. Defendants rented an alternate plane and withdrew the cost of rental of the plane from the escrow account in Oklahoma City. Essentially, plaintiff claims it was not in default under the lease and that the withdrawal by defendants from the escrow account was either wrongful or excessive.

#### JURISDICTION

In diversity cases, a federal district court sitting in Oklahoma looks to Oklahoma long-arm statutes in determining

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<sup>3</sup> January 25, 1983 through January 31, 1983 was one of the occasions set out in the lease during which defendants needed use of the plane.

whether it has in personam jurisdiction over nonresidents. Wilshire Oil Company of Texas v. Riffe, 409 F.2d 1277, 1279 (10th Cir. 1969); Jem Engineering & Manufacturing, Inc. v. Toomer Electrical Co., 413 F.Supp. 481, 483 (N.D.Okl. 1976); and Federal National Bank & Trust Co. of Shawnee v. Moon, 412 F.Supp. 644, 645 (W.D. Okl. 1976). Oklahoma's long-arm statutes are intended to reach to the outer limits of due process. Fidelity Bank, N.A. v. Standard Industries, 515 P.2d 219, 222 (Okl. 1973); Vemco Plating, Inc. v. Denver Fire Clay Company, 496 P.2d 117, 119 (Okl. 1972). However, in exercising in personam jurisdiction over non-residents, a court must accord such nonresidents the "minimum standards of federal due process as currently construed by the United States Supreme Court." Hines v. Clendinning, 465 P.2d 460, 463 (Okl. 1970).

Oklahoma's long-arm statutes are found at 12 Okl.St. Ann. §187 and 12 Okl.St. Ann. §1701.03. These statutes are to be read as co-extensive. Burchett v. Bardahl Oil Co., 470 F.2d 793, 796 (10th Cir. 1972). The party relying upon these statutes bears the burden of proving the factual base to support in personam jurisdiction over the nonresident defendant. Yarbrough v. Elmer Bunker & Associates, 669 F.2d 614, 616 (10th Cir. 1982); Hoster v. Monongahela Steel Corp., 492 F.Supp. 1249, 1252 (W.D.Okl. 1980).

The possible bases of jurisdiction over defendants herein are 12 Okl.St. Ann. §1701.03(a)(1) and §1701.03(a)(3). These statutes provide in pertinent part:

"(a) A court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a cause of action or claim for relief arising from the person's:

(1) transacting any business in this state;...

(3) causing tortious injury in this state by an act or omission in this state;..."<sup>4</sup>

Due process, consisting of the requirement of "minimum contacts," limits a court in exercising in personam jurisdiction over nonresidents. In International Shoe Co. v. State of Washington, 326 U.S. 310, 316 (1945), the Supreme Court said:

"... [D]ue process requires only that in order to subject a defendant to a judgment in personam, if he be not present within the territory of the forum, he have certain minimum contacts with it such that the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice.'"

The Court further stated:

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<sup>4</sup> Similarly, 12 Okl.St. Ann. §187(a) provides in applicable part:

"(a) Any person, firm, or corporation other than a foreign insurer licensed to do business in the State of Oklahoma whether or not such party is a citizen or resident of this State and who does, or who has done, any of the acts hereinafter enumerated, whether in person or through another, submits himself, or shall have submitted himself, and if an individual his personal representative, to the jurisdiction of the courts of this State as to any cause of action arising, or which shall have arisen, from the doings of any of said acts.

(1) the transaction of any business within this State;...

(2) the commission of any act within this State;..."

"...Whether due process is satisfied must depend ...upon the quality and nature of the activity in relation to the fair and orderly administration of the laws which it was the purpose of the due process clause to insure. That clause may make binding a judgment in personam against an individual or corporate defendant with which the state has no contacts, ties or relations." International Shoe at 319.

The minimum contacts requirement was later refined in Hanson v. Denckla, 357 U.S. 235, 253 (1958), where the Supreme Court stated:

" 'The unilateral activity of those who claim some relationship with a nonresident defendant cannot satisfy the requirement of contact with the forum State. The application of that rule will vary with the quality and nature of the defendant's activity, but it is essential in each case that there be some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws.' (Emphasis added)

Here, according to the uncontroverted affidavits of Karl Brunhuber, president of FOA Finco, Inc., and Fred Olsen, chairman of the board of Olsen Industries, Inc., neither Olsen nor Finco have employees or offices in Oklahoma. No employee or agent of either corporation entered Oklahoma in the course of negotiating or performing any obligation under the lease. The aircraft itself was to be based in Kansas City, Missouri. Nor did any of the corporations' employees or agents solicit plaintiff to enter into the lease; the lease appears to have been negotiated by Vance, an aircraft broker, in an effort to preserve deals made by it without the knowledge of Olsen/Finco. Further, it appears the

lease itself was executed in New York by Olsen/Finco then given to Vance who assumed responsibility for obtaining the signature of the other parties to the lease. Under these facts, it cannot be said defendants transacted business in Oklahoma. Assuming arguendo, the defendants did transact business in Oklahoma by entering into the lease arrangement, it cannot be said defendants purposefully availed themselves of the protections and benefits of the laws of Oklahoma. The Court thus concludes it may not exercise in personam jurisdiction over defendants on the basis of 12 Okl.St. Ann. §1701.03(a)(1).

However, plaintiff claims defendants committed a tort in Oklahoma by "converting" the funds contained in the escrow account located in Oklahoma City, thus causing tortious injury in Oklahoma by an act or omission in the state.<sup>5</sup> Plaintiff claims in personam jurisdiction over defendants may be exercised on the basis of 12 Okl.St. Ann. §1701.03(a)(3) and 12 Okl.St. Ann. §187(2). Under §1701.03 (a)(3) the essential inquiry is where the act constituting the alleged tort occurred; if the act occurred within Oklahoma and caused injury in Oklahoma, this Court may acquire personal jurisdiction over the defendant. Carter v. Houston Chronicle Publishing Company, 514 F.Supp. 12, 14 (W.D.Okl. 1980); Combs v. Chambers, 283 F.Supp. 297 (N.D.Okl. 1968).

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<sup>5</sup> If the alleged "conversion" were a tortious significant act herein, the venue would lie in the Western District of Oklahoma.

Under Oklahoma law, conversion is a distinct act or dominion wrongfully exercised over another's personal property in denial of or inconsistent with his rights therein. National Livestock Credit Corp. v. Schultz, 425 F.Supp. 966 (W.D.Okla. 1976); Wiley v. Safeway Stores, Inc., 400 F.Supp. 653 (N.D.Okla. 1974); Davidson v. First Bank & Trust Co. of Yale, 559 P.2d 1228 (Okla. 1976). A party may not maintain an action for conversion unless he has an interest in the thing converted, specifically the right of possession at the time of conversion. ITT Industrial Credit Company v. L-P Gas Equipment, Inc., 453 F.Supp. 671, 676 (W.D.Okla. 1978).

The Court initially notes plaintiff's complaint is for breach of the aircraft lease, not for conversion. Under the lease agreement the parties agreed to the following:

"18. Midwest has deposited \$70,000 with Ultra as security for its obligations under the Sales Contract and is obligated to pay Ultra the balance of \$630,000 when title to the Aircraft is transferred to it. Midwest and Ultra hereby agree that the \$70,000 deposit and the balance of \$630,000 shall be wire transferred on the date hereof to IATS Escrow Account No. 9560198 at First City Bank, N.A., in Oklahoma City, Oklahoma (non-interest bearing) by Insured Aircraft Title Services, Inc. of Oklahoma City to secure the payment and performance by Midwest of its obligations hereunder, including, without limitations its obligation to purchase the Aircraft pursuant to paragraph 17 ...". (Emphasis added)

Further, paragraph 3(a) of the lease agreement provides:

"In consideration of the lease of the Aircraft, the Lessor shall, during the period of this Lease, have unlimited use of the Aircraft from January 25, 1983 through January 31, 1983 and during February 1983 in

accordance with a schedule submitted, no later than January 31, 1983 to the Lessee (sic) by the Lessor."

Without passing on the merits of claims of the parties, defendants apparently believed plaintiff was in breach of paragraph 3(a) and as a remedy for that breach withdrew a portion of the escrowed amount in paragraph 18 to pay for the cost of rental of a substitute airplane.

Further, it does not appear from the facts before the Court that plaintiff had the right of possession of the escrowed funds at the time of defendants' alleged conversion as they had been pledged to secure plaintiff's performance under the terms of the lease and the terms of the sale contract between plaintiff and Ultra.

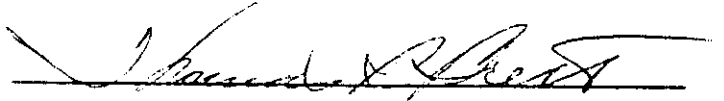
Finally, assuming the withdrawal of the escrowed funds could constitute a tort, the place where defendants wrongfully exercised dominion over the funds appears to have been New York, the place from which defendants made demand for the funds.

Plaintiff has failed to sustain the burden of proving the factual base to support in personam jurisdiction over defendants.

The Court thus concludes it may not exercise personal jurisdiction over defendants pursuant to 12 Okl.St. Ann. §1701.03(a)(3).

IT IS THEREFORE ORDERED defendants' motion to dismiss for lack of personal jurisdiction pursuant to Fed.R.Civ.P.12(b)(2) is sustained.

ENTERED this 6<sup>th</sup> day of December, 1983.

A handwritten signature in dark ink, appearing to read "Thomas R. Brett", is written over a horizontal line.

THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE





ment of Corrections, plaintiff was convicted on November 3, 1977, in the District Court of Nowata County, Case No. CRF-77-35, wherein he was charged with Lewd Molestation After Former Conviction of a Felony. On December 30, 1977, the Honorable Arthur J. Boose entered the Order Appointing Counsel for Appeal and Allowing Appeal at State Expense in which the court appointed trial counsel, James L. Sontag, to represent Mr. DeLancy on appeal. The order also directed that a transcript of the trial proceedings be prepared at state expense.

The appeal was perfected, F-78-347, and the Court of Criminal Appeals upheld the conviction. DeLancy v. State, 596 P.2d 897 (Okla. Cr. 1979).

After the conviction was upheld, Mr. DeLancy contacted the court reporter, Mr. Caldwell, seeking transcription of additional portions of the case; additional portions were transcribed. In December of 1980, Mr. DeLancy again wrote Mr. Caldwell concerning transcription of notes and Mr. Caldwell responded with a letter dated January 5, 1980 in which he requested that Mr. DeLancy inform him specifically and completely of any and all portions that he wanted transcribed, and then an estimate of costs would be sent.

Among documents supplied to the Court by plaintiff is a copy of a letter of February 14, 1981 from plaintiff to defendant requesting a copy of the "opening statement" made by Mr. Lieb during the "second or sentencing portion" of trial. It is apparently this letter which was allegedly refused by defendant.

However, defendant claims in affidavit that the refusal notation on the envelope is not in his handwriting.

On June 3, 1981, plaintiff filed an Ad Hoc Motion for Transcription of Designated Records in CRF-77-35 in Nowata County District Court seeking transcription of the Opening Statement of the Second Stage. This motion was denied.

On July 13, 1981, plaintiff filed an application for Writ of Mandamus in Court of Criminal Appeals Case No. 0-81-442, wherein plaintiff sought transcription of the Opening Statement of the Second Stage of trial. Plaintiff raised constitutional and statutory claims, contending that the district court abused its discretion in denying his motion. On October 26, 1981, the Court of Criminal Appeals order granted a copy of an existing portion of the transcript upon payment of costs.

In October, 1981, prior to the Order of the Court of Criminal Appeals Granting Copy of Portion of Transcript, 0-81-442, the plaintiff filed his application for post-conviction relief under 22 O.S. 1981, Sections 1080 et seq., referring to the opening statement of the second stage of trial in his application. The application was denied by the District Court of Nowata County and was appealed to the Court of Criminal Appeals. In an order dated December 27, 1982, the Court of Criminal Appeals entered the following order, in pertinent part:

After a careful review of the petitioner's application, we find that the district court was correct in denying relief. The petitioner's assertion of prejudice does not appear in the transcript or records of the trial.

Other issues raised by the petitioner are identical to those found not to exist by this Court on previous post-conviction relief applications.

Therefore, the district court order denying post-conviction relief is hereby affirmed. DeLancy v. State, No. PC-82-653 (Okl.Cr. Dec. 27, 1981)

In addition, the Special Report contains the affidavit of James Sontag, the attorney appointed by the Court to represent Raymond A. DeLancy in District Court of Nowata County Case No. CRF-77-35 and in the appeal of that case, F-78-347. He attests that he has reviewed his notes of the trial, and his notes indicate that he did not request the Court Reporter to report the Opening Statement of the Second Stage of the trial. He further attests that the Court Reporter transcribed everything that was necessary for the direct appeal.

Also included in the Special Report, which was transmitted to plaintiff, is a transcript prepared by defendant of the portions of the trial which defendant alleges have never been provided to him. In this regard, the Special Report states as follows:


Mr. Caldwell reviewed his notes of the trial, found he had reported the opening statement of the second stage of trial and has transcribed it. See Attachment H. The remainder of the transcript of the Sentencing Stage is attached See Attachment I.

It is the view of the Court that plaintiff's complaint is now moot. Since plaintiff still complains that he cannot read his copy of the transcript of the opening statements of the

second stage of trial, the Court is transmitting a clearly readable copy to plaintiff under separate cover. .

It is the Order of the Court that plaintiff's complaint should be and hereby is dismissed in all respects as moot.

It is so Ordered this 5<sup>th</sup> day of December, 1983.

  
H. DALE COOK  
Chief Judge, U. S. District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC - 6 1983

JACK CLAYTON SLEEK  
U.S. DISTRICT COURT

DYCO PETROLEUM CORPORATION,

Plaintiff,

vs.

Case No. 83-C-858-CV

FAWNMARK MINERALS, LTD.; KLIEWER  
OIL & GAS COMPANY; BRUCE B.  
SCOTT; and PATHFINDER ENERGY,  
INC.,

Hart #1-6 Defendants,

CHAMPLIN PETROLEUM COMPANY; BILL  
J. JENNINGS; PETRO-LEASE  
RESEARCH, INC.; JAMES A. PAYNE;  
VIVIAN S. PAYNE; DEYO PADDYAKER;  
DONNA LEE PADDYAKER; WILLIAM P.  
BIRCHALL; HENRY OIL & GAS, INC.;  
BILL J. SLOAN; GARVIN V. SLOAN;  
JOHN R. SPEARS; ANDY HELMS; and  
GARY YOUNG,

Staley-Howerton #1-8 Defendants,

D-I ENERGY, INC.; CLARK ELLISON;  
MABEE PETROLEUM CORPORATION;  
VINCE ALLEN OMICRON 82 PROGRAM,  
LTD.; and NOARKO RESOURCES, INC.;

Stevens #1-7 Defendants,

ROBERT G. ANDERSON; ELIZABETH  
G. ANDERSON; COMMONWEALTH  
ROYALTIES, INC.; JOSEPH F.  
MUELLER, Agent for Joseph Fred  
Mueller, Jr., Catherine  
Elizabeth Mueller, Virginia  
Marie Mueller and Ann Worden  
Mueller; BILL HODGES TRUCK  
COMPANY, INC.; KAISER-FRANCIS  
OIL COMPANY; and FRONTIER  
ENERGY COMPANY,


Yowell #1-26 Defendants,

L.O. WARD,

Baker-Flenner #1-20 Defendant, )  
BUFFALO ROYALTY CORPORATION, )  
Merrick #1-22 Defendant. )

NOTICE OF DISMISSAL OF DEFENDANTS  
MABEE PETROLEUM CORPORATION, VINCE ALLEN  
OMICRON 82 PROGRAM, LTD., AND NOARKO RESOURCES, INC.

Pursuant to the terms of Rule 41(a) (1), Dyco Petroleum Corporation hereby dismisses only the Defendants, Mabee Petroleum Corporation, Vince Allen Omicron 82 Program, Ltd., and Noarko Resources, Inc.

  
Lance Stockwell  
Paula E. Pyron  
Charles H. Crain  
Of BOESCHE, McDERMOTT & ESKRIDGE  
320 South Boston, Suite 1300  
Tulsa, Oklahoma 74103  
(918) 583-1777

ATTORNEYS FOR PLAINTIFF,  
DYCO PETROLEUM CORPORATION

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing Notice of Dismissal of Defendants Mabee Petroleum Corporation, Vince Allen Omicron 82 Program, Ltd., and Noarko Resources, Inc. was mailed to Tom Newby, Attorney for L.O. Ward, Ward Petroleum Corp., P.O. Box 1108, Enid, Oklahoma 73702; Stephen P. Friot, Attorney for Defendant, DI Energy, Inc., Spradling, Alpern, Friot & Gum, 101 Park Avenue, Suite 700, Oklahoma City, Oklahoma 73102; George S. Corbyn, Jr., Attorney for Defendant Clark Ellison, Ryan, Holloman, Corbyn & Grister, Oil and Gas Building, Suite 304, 110 North Robinson, Oklahoma City, Oklahoma 73102; S. Tom Morris, Attorney for Defendant Buffalo Royalty Corporation, Gibson, Ochsner & Adkins, 500 First National Bank Building, Amarillo, Texas 79101; Ira L.

Edwards, Jr., Jones, Francy, Doris, Sutton & Edwards, Inc., 114 E. 8th, Suite 400, Tulsa, Oklahoma 74119; James R. Miller, Attorney for Mabee Petroleum Corp., Moyers, Martin, Conway, Santee & Imel, 320 S. Boston, Suite 920, Tulsa, Oklahoma 74103; Wm. Lane Pennington, 700 Holarud Bldg., 10 East Third Street, Tulsa, Oklahoma 74103, Attorney for Defendant Champlin Petroleum Co.; Andrew J. Haswell, Jr., Attorney for Defendant Kliever Oil & Gas Co., Bradford, Haswell & Jones, 1000 Fidelity Plaza, Oklahoma City, Oklahoma 73102; John Frederick Kempf, Jr., Attorney for Defendants James A. and Vivian S. Payne, Rowntree & Kempf 6440 Avondale Drive, Suite 201, Oklahoma City, Oklahoma 73116; Donna Lee Paddyaker, 552 N. Pennsylvania, P.O. Box 24103, Oklahoma City, Oklahoma 73124; Deyo Paddyaker, 552 N. Pennsylvania, P.O. Box 24103, Oklahoma City, Oklahoma 73124; Harry C. Marberry, Attorney for Defendant Frontier Energy Co., 2212 N.W. 50th, Suite 250, Oklahoma City, Oklahoma 73112; Gene Howard, Attorney for Defendant Pathfinder Energy, Inc., 2642 E. 21st Street, Suite 275, Tulsa, Oklahoma 74114; Bruce Daniel, Holliman, Langholz, Runnels & Dorwart, Attorney for Defendant Kaiser-Francis Oil Co., 10 E. 3rd St., Suite 700, Tulsa, Oklahoma 74103; Bill J. Jennings, 2633 E. 45th Street, Tulsa, Oklahoma 74105; Henry Oil & Gas, Inc., 5915 N.W. 23rd Street, Suite 212, Oklahoma City, Oklahoma 73127; Bruce B. Scott, c/o OK West Mineral Prop., Inc., 4801 Classen Boulevard, Suite 206, Oklahoma City, Oklahoma 73118; Bill J. Sloan 1830 W. Main Street, Oklahoma City, Oklahoma 73106; John P. Spears c/o S-V, Inc., P.O. Box 82084, Oklahoma City, Oklahoma 73148; Garvin Sloan, 401 S.W. 103rd Street, Oklahoma City, Oklahoma 73139; Gary L. Young, 1306 Sequoyah, Moore, Oklahoma 73160; William P. Birchall c/o The Penn Mutual Life Insurance Co., 3601 Classen Blvd., Suite 201A, Oklahoma City, Oklahoma 73118; Fawnmark Minerals, Ltd., P.O. Box 22056, Oklahoma City, Oklahoma 73123; Petro-Lease Research, Inc., 6409 N. MacArthur, Oklahoma City, Oklahoma 73132; Andy Helms, 3031 N.W. 64th Street, Suite 150, P.O. Box 20500, Oklahoma City, Oklahoma 73156; Vince Allen Omicron 82 Program, Ltd., 950 South Cherry, Suite 1000, Denver, Colorado 80222; Noarko Resources, Inc., 950 South Cherry, Suite 1000, Denver, Colorado 80222; and Bill Hodges Truck Co., Inc. c/o Core Petroleum, Ltd., P.O. Box 19247, Oklahoma City, Oklahoma 73144; by depositing a copy thereof in the United States Mails in Tulsa, Oklahoma with first-class postage thereon prepaid, this 6th day of December, 1983.

Paula E. Pyron



IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC - 5 1983

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

FLOYD WESLEY OWENS,

Plaintiff,

vs.

CITY OF PRYOR CREEK, OKLAHOMA;  
et al.,

Defendants.

No. 83-C-879-C

O R D E R

Now before the Court for its consideration is the motion of all defendants, filed on November 17, 1983. The Court has no record of a response to this motion from plaintiff. Rule 14(a) of the local Rules of the United States District Court for the Northern District of Oklahoma provides as follows:

(a) Briefs. Each motion, application and objection filed shall set out the specific point or points upon which the motion is brought and shall be accompanied by a concise brief. Memoranda in opposition to such motion and objection shall be filed within ten (10) days after the filing of the motion or objection, and any reply memoranda shall be filed within ten (10) days thereafter. Failure to comply with this paragraph will constitute waiver of objection by the party not complying, and such failure to comply will constitute a confession of the matters raised by such pleadings.

Therefore, in that plaintiff has failed to comply with local Rule 14(a) and no responsive pleading has been filed to date herein, the Court concludes that plaintiff has waived any

objection to said motion and has confessed the matters contained therein.

Accordingly, it is the Order of the Court that defendants' Motion to Dismiss should be and hereby is sustained.

It is the further Order of the Court that this action is hereby dismissed in all respects.

It is so Ordered this 3<sup>rd</sup> day of December, 1983.

  
H. DALE COOK  
Chief Judge, U. S. District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ACCOUNTABILITY BURNS, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
SAM REDDING, )  
 )  
Defendant. )

FILED

DEC -5 1983

No. 83-C-701-BACK C. SILVER, CLERK  
U.S. DISTRICT COURT

ORDER

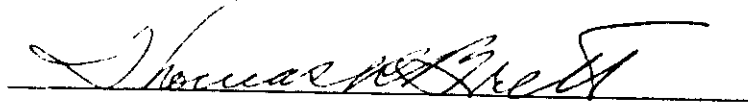
This matter comes before the Court on the defendant's motion to dismiss for failure to state a claim upon which relief can be granted, filed pursuant to F.R.Civ.P. 12(b)(6). The Court notes the plaintiff's response to the motion was filed out of time and thus was not filed in compliance with Local Rule 14(a) of the Rules of the Northern District of Oklahoma. Nevertheless, the Court makes its ruling on the motion on the merits. For the reasons set forth below, the motion to dismiss is granted.

Plaintiff filed this action under 42 U.S.C. §1983, contending Sam Redding discriminated against him on the basis of age by refusing to hire him as an instructor in the Science and Technology Department of Tulsa Junior College.

The appropriate statute under which an age discrimination claim should be brought is 29 U.S.C. § 621 et seq., the Age Discrimination in Employment Act. An action under 42 U.S.C. §1983 is not appropriate in an age discrimination in employment claim. Butz v. Hertz Corp., 554 F.Supp. 1178, 1182 (W.D. Pa. 1983). See also, McCroan v. Bailey, 543 F.Supp. 1201 (S.D. Ga. 1982); Bleakley v. Jekyll Island - State Park Authority, 536 F.Supp. 236 (S.D. Ga. 1982).

Defendant's motion to dismiss for failure to state a claim  
is granted.

ENTERED this 2nd day of December, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

U. S. DISTRICT COURT  
Jack C. Shinn, Clerk

DEC - 11 1988

F I L E D

ROBERT ROMANUS,  
Plaintiff,  
vs.  
DENNIS HEDICHAKIS, INC.,  
Defendant.

STATEMENT

Now on this 28th day of November, 1988, the above entitled cause came on for trial on its merits. Plaintiff appears in person and by and through his counsel or representative and counsel of record, Stephen C. Wilkerson. A jury of six persons were selected who were duly impaneled and sworn well and truly to try the issues joined between the plaintiff and defendant and a true verdict render according to the evidence; the court directed the plaintiff to proceed with the introduction of evidence. Plaintiff introduced his evidence and tested. The defendant thereafter, moved to dismiss plaintiff's motion, said motion to dismiss being overruled by the court. The cause continued until the following day whereupon the defendant introduced its evidence and tested. The jury, having heard the evidence, closing statements of counsel, charges of the court, upon their oaths, say:

"We, the jury, impaneled and sworn in the above entitled cause, do upon our oaths, find as follows:

1. Plaintiff's negligence -

1. Defendant's negligence -

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the plaintiff have and recover nothing from the Defendant and that judgment be entered in favor of the defendant.

s/H. DALE COOK

---

JUDGE OF THE NORTHERN DISTRICT COURT

Entered  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC -2 1983

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

JOHN G. SULLIVAN and  
FIORETTA M. SULLIVAN,

Plaintiffs,

v.

THRIFTY, INC.,

Defendant,

CONSOLIDATED WITH

W. F. STEMMONS,

Plaintiff,

v.

THRIFTY, INC.,

Defendant.

Case No. 82-C-803-B  
Consolidated with  
Case No. 82-C-802-B

J U D G M E N T

In keeping with the Findings of Fact and Conclusions of Law entered this date, IT IS HEREBY ORDERED the defendant, Thrifty, Inc., is to have judgment against the plaintiffs, John G. Sullivan and Fioretta M. Sullivan and W. F. Stemmons on the plaintiffs' complaints. IT IS FURTHER ORDERED on Count I of the defendant's Counterclaim judgment is hereby entered in favor of the defendant Thrifty, Inc., and against the plaintiff, W. F. Stemmons, in the amount of Two Hundred Twenty Eight Thousand Two Hundred Ninety Eight and 96/100 Dollars (\$228,298.96), plus interest at the rate of 6% per annum from March 26, 1982 and on Count I judgment is entered

in favor of the defendant Thrifty, Inc., and against the plaintiffs, John G. Sullivan and Fioretta M. Sullivan, in the total amount of Eleven Thousand Seven Hundred Sixty Three and 04/100 Dollars (\$11,763.04), plus interest at the rate of 6% per annum from March 26, 1982 to this date;

IT IS FURTHER ORDERED on Counts II, III and IV of the defendant's Counterclaim, Judgment is hereby entered in favor of the defendant Thrifty, Inc., and against the plaintiff, W.F. Stemmons, in the total amount of Six Hundred Sixty Five Thousand Seven Hundred Dollars (\$665,700.00);

IT IS FURTHER ORDERED on Count II of the defendant's Counterclaim, Judgment is hereby entered in favor of the defendant Thrifty, Inc., and against the plaintiffs, John G. Sullivan and Fioretta M. Sullivan, in the total amount of Thirty Four Thousand Three Hundred Dollars (\$34,300.00), and judgment is rendered in favor of the plaintiffs, John G. Sullivan and Fioretta M. Sullivan, and against the defendant, Thrifty, Inc., on Counts III and IV of the defendant's Counterclaim;

IT IS FURTHER ORDERED the plaintiffs, W. F. Stemmons and John G. Sullivan and Fioretta M. Sullivan, are to have judgment against the defendant Thrifty, Inc., on said defendant's claim of punitive damages;

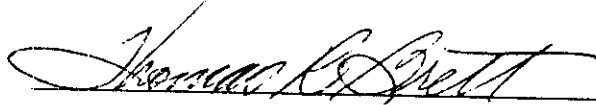
IT IS FURTHER ORDERED post-judgment interest is granted to the defendant, Thrifty, Inc., and against the plaintiffs, W.F.



Stemmons and John G. Sullivan and Fioretta M. Sullivan, from this date at the rate of 9.93% per annum; and

IT IS FURTHER ORDERED the defendant, Thrifty, Inc., is to have judgment against the plaintiffs, W.F. Stemmons, John G. Sullivan and Fioretta M. Sullivan, for a reasonable attorney's fee, to be hereafter determined, and the costs of this action.

ENTERED this 2<sup>nd</sup> day of December, 1983.

A handwritten signature in cursive script, appearing to read "Thomas R. Brett", written over a horizontal line.

THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC -2 1983

BELGER CARTAGE SERVICE, INC.,  
a Missouri corporation,

Plaintiff,

v.

RODGERS CONSTRUCTION, INC., OF  
NASHVILLE, TENNESSEE, a/k/a  
RODGERS CONSTRUCTION, INC., a  
Tennessee corporation; and  
NATIONAL FIRE INSURANCE COMPANY  
OF HARTFORD, a Connecticut  
insurance corporation,

Defendants.

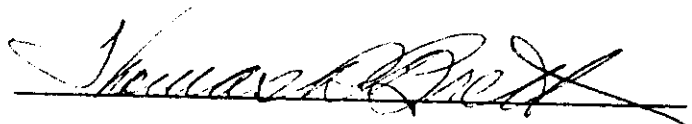
JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

NO. 83-C-11-B

J U D G M E N T

In keeping with the Findings of Fact and Conclusions of Law filed herein this 2nd day of December, 1983, IT IS ORDERED judgment is hereby entered in favor of the plaintiff, Belger Cartage Service, Inc., and against Rodgers Construction, Inc., and National Fire Insurance Company of Hartford in the amount of Six Thousand Six Hundred Dollars (\$6,600.00), plus the costs of this action.

ENTERED this 2nd day of December, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

Entered

FILED

DEC -2 1983

J.A. COMPRESSOR INCORPORATED,  
an Oklahoma corporation,

Plaintiff,

v.

COMPRESSOR SYSTEMS, INCORPORATED,  
a California corporation,

Defendant.

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

No. 83-C-620-BT

ORDER SUSTAINING DEFENDANT'S  
MOTION TO TRANSFER

Before the Court for consideration is the defendant's motion to transfer or in the alternative, to dismiss for lack of in personam jurisdiction. Plaintiff has filed its response thereto. For the reasons set forth below, the Court finds the motion should be sustained.

Plaintiff filed its complaint herein on July 14, 1983. The allegations of the complaint are as follows: On September 29, 1981, defendant contacted plaintiff about the purchase of certain compressors from plaintiff. Subsequent to negotiations between the parties, a contract for sale of five "Model A-35 Gas Compressors" was entered into on July 1, 1982. The unit price of each compressor was \$8,000.00. Plaintiff manufactured and shipped two compressors to defendant on August 31, 1982. Defendant paid the invoice price of \$16,575.00 (the purchase price plus freight costs). The remaining three compressors due under the contract were shipped by plaintiff on September 30, 1982. Plaintiff sent the invoice on the three compressors to defendant and demanded payment in the amount of \$25,150.00. Defendant has refused to pay the amount.

Defendant seeks transfer of this action to the United States District Court for the Central District of California where a related matter is pending, Compressor Systems, Incorporated v. J.A. Compressor Incorporated, No. 83-4189, filed June 29, 1983. The California case is a suit by the defendant in the Oklahoma case against the plaintiff in the Oklahoma case for breach of express warranty, breach of implied warranty of merchantability and breach of implied warranty of fitness for a particular purpose. The subject matter of the California case is the same five compressors which is the subject matter of the Oklahoma case.

Under 28 U.S.C. §1404(a) a court may transfer any civil action to any other district or division where it might have been brought "[f]or the convenience of parties and witnesses, [and] in the interest of justice."

As can be expected, each party herein has argued the inconvenience to it and to its prospective witnesses outweighs the inconvenience to the other party and its prospective witnesses should the Court transfer or not transfer the matter.

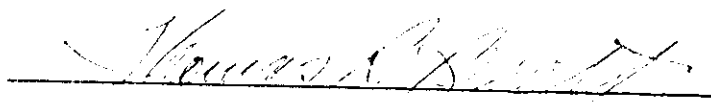
"Considerations of judicial economy and efficiency clearly support a policy of having substantially similar matters litigated before the same tribunal." Sundance Leasing Company v. Bingham, 503 F.Supp. 139, 140 (N.D.Tex. 1980); see, e.g., Payne v. AHFI Netherlands, 482 F.Supp. 1158, 1164 (N.D.Ill. 1980); Can-Base Productions, Ltd. v. Portrait Records, 445 F.Supp. 777, 778 (S.D.N.Y. 1978). Further, a previously filed federal lawsuit is given priority unless reasons exist to proceed with the latter action. Dow Jones & Company, Inc. v. Board of Trade of City of

Chicago, 539 F.Supp. 190, 193 (S.D.N.Y. 1982); see also Factors, Inc. v. Pro Arts, Inc., 579 F.2d 215, 218 (2d Cir. 1978), cert. denied, 440 U.S. 908 (1979).

Here, the subject matter of the two pending lawsuits is the same and the causes of action of each arise out of the same transaction. Further, it appears the inconvenience to the parties will be substantially equal however the Court decides the motion to transfer. Thus, the interest of justice is the determining factor. Whether to transfer a case in the interest of justice lies within the broad discretion of a trial court. Goldsberry v. Ford Motor Co., 343 F.Supp. 1163, 1164 (E.D.Wis. 1972).

The Court therefore concludes it is in the interest of justice to transfer this matter to the United States District Court for the Central District of California where the previously filed related matter is pending.<sup>1/</sup>

IT IS SO ORDERED this 12 day of December, 1983.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

- 
1. It is not necessary that the Court address the question of in personam jurisdiction over defendant. A district court may transfer an action "in the interest of justice" even if it lacks personal jurisdiction over the defendant. See Gipromer v. SS Tempo, 487 F.Supp. 631, 632 (S.D.N.Y. 1980); Goldlawr v. Helman, 369 U.S. 463, 466 (1961); and Corke v. Sameiet M.S. Song, 572 F.2d 77, 80 (2nd Cir. 1978).

Entered

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DEC -1 1983

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

DELVIN LUMPKIN & DELVIN LUMPKIN )  
d/b/a REBAR CONSTRUCTION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
WILLIAM G. YOUNG CONSTRUCTION )  
COMPANY, INC., a Kansas )  
corporation, )  
 )  
Defendant. )

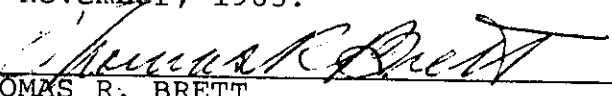
NO. 83-C-184-B

JUDGMENT FOR ATTORNEY'S FEES AND COSTS

A hearing on attorney's fees in the captioned matter was set this date. Counsel for the respective parties appeared and announced an agreement had been reached concerning both the issue of a reasonable attorney's fee and costs. It was agreed a reasonable attorney's fee to be awarded plaintiff's counsel of record, Malcom P. Hammond, is the amount of Eight Thousand Five Hundred Dollars (\$8,500.00), and total costs in the amount of Seven Hundred Forty-Eight Dollars (\$748.00).

IT IS THEREFORE ORDERED the plaintiff, Delvin Lumpkin, is entitled to a judgment for and on behalf of his attorney, Malcom P. Hammond, in the sum of Eight Thousand Five Hundred Dollars (\$8,500.00) against the defendant William G. Young Construction Company, Inc. and the plaintiff is entitled to a judgment for costs against said defendant in the amount of Seven Hundred Forty-Eight Dollars (\$748.00).

DATED this 29th day of November, 1983.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

BEAU G. JAMES,

Plaintiff,

vs.

BURLINGTON NORTHERN RAILROAD  
COMPANY,

Defendant.

No. 81-C-500-C ✓


JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

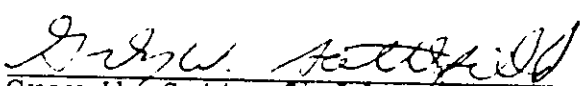
DEC - 1 1983

FILED

STIPULATION FOR DISMISSAL WITH PREJUDICE

The parties hereto advise the Court that they have agreed to fully settle this case and thereby stipulate that plaintiff's cause of action be dismissed with prejudice, each party to bear its own costs.

  
Robert A. Tramuto, of  
JONES, GRANGER, HAAG & TRAMUTO  
Attorneys for Plaintiff

  
Grey W. Satterfield, of  
KORNFELD SATTERFIELD McMILLIN  
HARMON PHILLIPS & UPP  
Attorneys for Defendant

ORDER

Upon stipulation of the parties and for good cause shown plaintiff's cause of action against the defendant is hereby dismissed with prejudice to the refiling of such action, each party to bear its own costs.

IT IS SO ORDERED this 2 day of December, 1983.

  
UNITED STATES DISTRICT JUDGE

FILED  
DEC - 5 1983  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

Entered

FILED

DEC -1 1983

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff,

v.

WALTER M. WILLIAMS,

Defendant.

NO. 83-C-594-B

J U D G M E N T

In accordance with the Findings of Fact and Conclusions of Law entered this date, Judgment is hereby entered in favor of the plaintiff, United States of America, and against the defendant, Walter M. Williams, in the amount of Eight Hundred Forty Nine and 61/100 Dollars (\$849.61), plus interest from the date of judgment herein at the rate of 9.93%. Costs of this action are assessed against the defendant.

ENTERED this 30<sup>th</sup> day of November, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE